

Contest, Social Valuation and Change in American
Labor-Union Organizing, 1961 to 2004

by

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Submitted to the Department of Management

in partial fulfillment of the requirements for the degree of

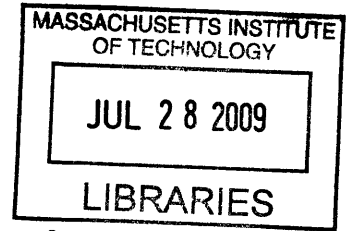
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
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Abstract

In this thesis I explore the connections between changes to the formal procedures by which American labor unions enroll new members and the subsequent meanings and purposes that potential members and third parties attribute to unions. In the first essay I use a new, multi-stage model of union organizing to demonstrate that previous research has underestimated the difficulties that unions face in enrolling new members, particularly when charges of employer illegality are involved. In the second essay I theorize that this alteration of the union-formation process, by focusing members' attention on the necessary first step of becoming organized rather than on contract negotiations, has contributed to the erosion of the unions' long-established and once robust system of exclusive jurisdictions. I argue that union voters' shift toward diversified unions is an example of how categories are used in the process of social valuation and how changes in valuation can help organizational sociologists understand why category systems can suddenly change. In the third essay (co-authored with Thomas A. Kochan and Lucio Baccaro) I discuss other historical episodes where changes to the laws governing union organizing have been associated with changes in the definition of a legitimate union member and draw several implications for the prospects that current labor-law reform being debated in Congress will have a large effect on union membership.

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All graduate students hate writing. Give us an acknowledgments page though and we turn into Proust. If only to fight cliché, I shall be brief.

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This list could go on forever. Writing a dissertation is, at root, a selfish process. It cannot be done without others' support and forbearance. No one has given me more than Esther Cervantes, the light of my life. I only hope that this thesis somehow compensates for six years' winters in the bitter north.

I dedicate this thesis though to others: to my wee nephews, Connor Joubert and Lukas Grant Ferreira. This thesis is about the disappearance of an institution, but (for me at least) it is also about the end of a country and a way of life that was bound up with families like our own, in ways that, were I to detail them all, *would* turn me into Proust. May you two grow up in a more hopeful world. May we do all that we can to bring that world about.

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Chapter 1

Introduction

When Parsons and Smelser (1956) published *Economy and Society* in 1956, the two sociologists pictured society as functionally differentiated among a number of interacting subsystems. Thus the household stood as a subsystem within society as the “labor function” was a subsystem within the larger system of the economy and the “regulatory apparatus” formed one of several links between the economy and the polity. The labor union in particular they assigned a basic if not an exciting role in the perpetuation of industrial capitalism, as part of the “double interchange between the economy and the pattern-maintenance sub-system” [p. 71]. The details of that phrase are not important for this study, and indeed today the Parsonian concept of an organically solidaristic society that tends toward equilibrium is out of favor in the social sciences. Parsons and Smelser were hardly eccentrics in their time, though. In his own *Industrial Relations Systems*, Dunlop (1958) explicitly invoked the Parsonian idea to justify his own detailing of “an analytical subsystem of an industrial society on the same logical plane as an economic system, regarded as another analytical subsystem” [pp. 4f]. Dunlop too gave a central role to the labor union alongside the private firm and the state in elaborating and maintaining the “web of rules” that reproduced social action in the workplace [p. 7]; and when Easton (1965) detailed the “social components” that impinged as interested parties on state action in *A Systems Analysis of Political Life*, he also classified organized labor alongside the church and private enterprise as basic units from which social interaction emerged.

Whether these mid-century social scientists were right to give this status to organized labor is a separate matter; but when each of these men tried to analyze American society into its constituent bits, he decided that the trade union possessed the same air of permanence, function and historical inevitability as the other corporate forms. That they would all make this decision seems shocking today because, of course, over the last generation organized labor as such a force in shaping the American polity, society or even economy has disappeared. There are many reasons to care about the fate of labor unions in the United States, but one of the most interesting to the social researcher is easy to overlook precisely because it is so obvious: the decline of organized labor in America presents us with one of the only instances we have of a major social institution's disappearing.

Each of the three essays in this thesis addresses an aspect of that disappearance. These essays were conceived and written as self-contained pieces of research and so it makes little sense to duplicate the theoretical framings therein here. Because they were so written, though, the intellectual program that connects them may appear obscure. In this introduction therefore I describe the connections between these essays. I also discuss the *common* theoretical interest that these works have: the relationship between formal organizational processes and the social conceptions of value that members and potential members of those organizations ascribe to them.

In chapter 2, "The Eyes of the Needles: A Sequential Model of Union Organizing Drives, 1999–2004," I focus attention on the multiple stages of the union-recognition process, in order to demonstrate that focusing on the most visible stage (the representation election), as most prior research has, produces an unjustifiably optimistic estimation of workers' ability to join labor unions. In particular I demonstrate that while previous researchers were right to conclude that employer illegality during union-organizing drives has little effect on election results (Lawler and West 1985), they were wrong to generalize that such illegality had little effect on the overall chances of organizing. Because union organizers can choose to withdraw rather than hold elections, the sample of cases with ULP charges in the election data is badly biased. Employer's illegality does have a significant and large effect on the proba-

bility that workers will ultimately form a union and negotiate a contract with their employer, but that effect “bites” before and after the election rather than during it.

The research described in chapter 2 connects to the other portions of the thesis in three ways. First, most of the prior research on union-representation elections had been behavioral (Getman et al. 1976; Farber 2001) but assumed that the organizational process studied did not itself shape workers’ beliefs and future behaviors. That is, studies assumed the aggregate unemployment rate could affect whether employees would vote for unions but implicitly assumed that the aggregate level of employer legal violations or the expected delay in resolving jurisdictional objections during an organizing drive could not. The level of legal problems in union organizing, though, made this assumption appear unrealistic. What can researchers infer about workers’ opinions toward unions when only a subset (and apparently a biased one) can ever express preferences through voting? Breaking down an organizational process into its constituent stages leads the researcher to focus on the actors’ behaviors at different stages as strategic responses to the process itself rather than toward the goals that the process is meant to serve (Fernandez and Weinberg 1997; Fernandez et al. 2000). Such a focus in turn requires problematizing actors’ mental connections between ends and the means that they adopt to serve those ends (Zuckerman 2003). It is a short jump from here to the process of social valuation explored in chapter 3.

Second, during exploratory analysis of the data used in chapter 2, it became apparent both that the most successful unions were those that ran organizing drives across a broad swath of different industries, even though the industries with the highest average success rates for organizing drives were not those with the most unions active in them. This contradicted both the theoretical principle of trade-union jurisdiction (Perlman 1928; Ulman 1955) and the emphasis in the newer union-revitalization literature on unions’ strategic targeting of industries for corporate campaigns (Voss and Sherman 2000; Bronfenbrenner and Hickey 2004), though it did resonate with several impressionistic studies of “conglomerate unions” (Wheeler 2002; Chaison 2004). Because the dataset used in chapter 2 covers only five recent years, I could not determine whether this result was a quirk of the time period or represented a change from past

behaviors. My interest in understanding relationship between union diversification and organizing success over time drove me to collect more longitudinal data.

Third, the findings in chapter 2 seemed to suggest two contradictory policy implications. Given that employer violations are both relatively widespread and effective, passing a law that restrains this threat, such as the Employee Free Choice Act now being considered by Congress, seemed urgent and likely to be effective. If on the other hand workers had responded to the obstacles in the organizing process by deciding that it was an invalid means to serve their ends, then streamlining the process would not by itself make much of an impact. Chapter 4 developed out of extending this reasoning to other historical episodes when the formal procedures for union organizing changed and considering what had resulted from those interactions between the state and the labor movement.

Chapter 3, “Space Invaders: Social Valuation and the Diversification of Union Organizing Drives, 1961–1999,” seeks to explain what indeed appears to be a sectoral shift from workers favoring unions that remain within their industrial jurisdictions to favoring unions that organize across those jurisdictions. In this study I explore the connection between the two phenomena—the increased difficulty of winning representation elections and the success of more diverse organizing—that had appeared in the previous study. I build on recent research into candidate-audience interfaces in organizational and economic sociology (Zuckerman et al. 2003; Zuckerman and Rao 2004; Hannan et al. 2007) to problematize this transformation in union voting. While ecological theories make sensible predictions about the conditions under which organizations would choose to be specialists or generalists, those theories lack an explanation for why those organizations’ audiences would start to prefer organizations that switch. I combine interviews with present and former union organizers and analysis of historical election data to demonstrate that unions’ shifting fortunes can be explained by voters who, faced with precisely the sort of employer opposition to organizing described in chapter 2, came to see unions with experience breaking into new industries as better able to serve their ends than unions with established industrial track records but less organizing skill. Consistent with this idea, I find that only those

unions who adopted centralized organizing departments and professional organizing staffs benefited from diversification after the early 1980s.

The results in chapter 3 support the idea that union voters apply categories as a necessary first step in a social process of evaluating unions, and that such lay theories of value can change. Zuckerman (2003) has noted that there is a functionalist logic to this idea, albeit a crude one. If we assume that people rely on categories to simplify their ranking and evaluation of groups and organizations *and* if we assume that any categorization along a unidimensional characteristic necessarily oversimplifies the very object whose evaluation categorization is supposed to aid, then the potential for category systems to change is widespread—indeed, unavoidable. The question both for social scientists and practitioners then becomes the conditions under which a new theory of value emerges and spreads.

Chapter 3 answers this question on a microsociological scale by asserting that union organizers, in their role as introductory intermediaries between unions and potential members, conveyed the basis for a new theory of value to emerge in the late 1980s and 1990s. By self-consciously describing their skill, organizers introduced new members to another dimension on which to evaluate trade unions. The (crudely) functionalist element of this story is that those organizer who *had* succeeded at organizing outside their unions' core industries were most likely to succeed again, and so the new theory of value spread. The surprising aspect of this finding is that one part of the organizer's job has historically been to maintain the boundaries of the union's jurisdiction. That these individuals should be the leading agents of those jurisdictions' decline is ironic.

The interpersonal exchanges of ideas at the level of individuals' social networks are a fruitful sites to explore the spread of lay theories of value, which, because of their "crudity," overlap with social norms. Several recent simulation studies have made advances in this direction (Centola et al. 2005; Baldassarri and Bearman 2007), and theorists of social categorization who believe that actor-level exchanges are important would do well to follow their lead. Such concepts can of course spread by more diffuse means, though, such as legal regulation and state policies. Actor-level spread of a

new theory of value was particularly important in the 1980s because the Reagan Administration's approach to reducing union density did not involve promulgating new standards as much as it involved removing institutional supports from existing standards and allowing them to erode. The potential benefits of affiliating with diversified unions has thus diffused in a sort of policy limbo.

The trade union has not always been so disregarded, though. Chapter 4, "Turning Points in Labor: Theories, Challenges and Opportunities," examines four past and one (potentially!) current moment when labor's fortunes have changed sharply. Freeman (1998) points out that trade-union density in most countries has risen and fallen discontinuously and argues that the simultaneity of trade-union growth in the 1930s and decline in the 1980s in many countries suggests that policy reforms had relatively small effects. I argue that Freeman's conception of the role of state power is too limited. I revisit four significant turning points in twentieth-century American labor relations: the Great Depression, the adoption of the Taft-Hartley Act at the start of the Cold War, the surge in public-sector unions in the 1960s and the decline of mass-production and construction unions in the 1980s. In each of these four cases, social groups had begun to challenge the existing limits of unionization; subsequent state action legitimated their efforts and allowed them to expand their activity. By contrast, no surges in present of potential membership have occurred in periods when militant organizing activity or legislative reform happened separate from one another. In each of these four cases, a political realignment and significant new legislation that altered the details of trade-union formation was accompanied by some redefinition of who could or should join a trade unions. Having already demonstrated that policy changes affect members' conceptions of their organizations and how they serve their ends, in chapter 4 I suggest that the greatest hurdle that the labor movement faces in turning the current economic crisis into another turning point for its fortunes is not continued employer resistance—serious though that is—but rather is the widespread lay theory of value among most workers that unions *even if formed* cannot or do not help them achieve their particular ends.

Chapter 2

The Eyes of the Needles: A Sequential Model of Union Organizing Drives, 1999–2004

This essay models three stages of the union organizing drive, using a new dataset on more than 22,000 drives between 1999 and 2004. The correlated sequential model tracks drives through holding an election, winning an election and reaching first contracts. Only one seventh of organizing drives that filed an election petition with the NLRB managed to reach a first contract within a year of certification. The model, which controls for the endogeneity of ULP charges, finds that an unfair labor practice charge is associated with a 30-percent smaller cumulative chance of reaching such a contract. ULP charges primarily affect the decision to hold an election and the ability to reach a first contract rather than the votes cast. A sequential model such as this one could be extended to test between some competing theories about the determinants of union organizing.

2.1 Introduction

Industrial relations research has produced numerous studies of the conditions under which unions are formed and grow. In the United States and other countries with

union-election regimes, this work has overwhelmingly focused on election results. Yet elections are but one step in a longer process rife with opportunities for success or failure. Since during election it is the workers rather than the union (as an organization) or the employer who determine success or failure, our theories of union formation have given more weight to things that shape individual preferences for unionization than to the influence of the organizational process. This paper incorporates elements of that organizational process by treating the election as only one of the needles' eyes through which workers must pass to join a union.

The focus on elections has stemmed in part from missing data for the other stages of the process. To date nationally representative data have never been assembled to calculate the likelihood that an effort to unionize through the formal NLRB election procedure will reach its ultimate goal. This paper assembles the data to do so. Since employer resistance to unionization has long been a central topic of industrial relations research (Flanagan 2005; Freeman 2005), this paper examines how the presence of an unfair labor practice (ULP) charge affects the probability of reaching different stages of the organizing process. The results show that only one in seven formal certification drives survive from filing an election petition through negotiating a first contract within the union's first year. In cases where an unfair labor practice charge is present, the likelihood of getting to a first contract falls by 30 percent.

I use ULP charges by individuals or unions against the employer as the main independent variable for two reasons. The first is that they are an important indicator of the health of the industrial-relations system. The second is that, despite their intuitive importance, prior work has found conflicting associations between ULP charges and representation election outcomes. By broadening the focus to earlier and later stages in the process, I show that the negative relationship of the ULP charge is most evident earlier and later than the election, in the decision to hold an election and in the unfolding of contract negotiations.

Organizing drives in the United States must clear not one but several hurdles: they must win the right to hold a representation election, win the election and then negotiate a contract with the employer. By gathering data for each of these stages

and estimating success in each stage separately, this paper identifies factors that affect holding elections, election results and reaching a first contract after electoral victory. Not all factors affect success in all of these stages. An organizing drive need only fail in one stage to fail completely, though, so understanding when and why different factors impinge on success is important for any planning to improve the election process.

The ultimate goal in this paper is not to uncover all the determinants of organizing success at all stages of the process. Its goal is more modest: it presents recent and nationally representative data on a larger portion of the organizing process than has previously been available. It shows that at least some important determinants of union-organizing success, such as ULP charges, seem to matter more in the buildup to and aftermath of elections than in the voting itself. It calculates the cumulative likelihood of surviving an organizing campaign and then estimates the cumulative impact of a ULP charge. And it offers some speculation about how a sequential approach could be used to extend research on union organizing.

2.2 The union organizing drive

There are three ways to form a union under the National Labor Relations Act (NLRA). First, an employer and the employees' chosen representative can voluntarily negotiate a collective-bargaining agreement without informing the National Labor Relations Board (NLRB). Second, employees can vote for a union in a secret-ballot election that the NLRB certifies. Third, the NLRB can mandate an employer to bargain with a union when the board determines that actions by the employer have made it all but impossible for a free and fair secret-ballot election to take place. The third means has become extremely uncommon. The first means, so-called voluntary recognition, accounts for a growing share (Brudney 2005). Yet voluntary recognition is limited to cases where the employer either does not oppose unionization or has agreed to it in the face of strong public pressures, such as corporate campaigns. Election is the procedure that is embedded in the law and that gives employees a way to organize even if the employer is opposed. It is the means with the widest scope and

thus the best indicator of the health of the system as a whole.

For most employees a union is a means to the end of changing the terms and conditions of work. That end requires a collective-bargaining agreement, or contract. In countries where such contracts are negotiated at the industry level, the adoption of contract terms can follow almost automatically from union recognition. In the United States, where most unions negotiate a contract with a single employer or even with a single establishment, the one need not follow the other: “Because a sizable number of employers refuse to accept unions even after an NLRB election and have the economic strength to resist union efforts, there is a leakage from elections to contracts” (Freeman and Medoff 1984). Thus, when the outcome of interest is a change in employment relations, the representation election is not a final outcome. Instead it is an intermediate step in a process that begins with the organizing drive and ends with a contract.

The most common steps in that process are shown schematically in figure 2-1.¹ A group of workers decide to try to form a union, either on their own or through the instigation of a sympathetic union. The organizers then start a “card drive.” To petition the NLRB to hold an election, the petitioners must submit proof, most often in the form of signed cards, that at least 30 percent of the employees in the proposed bargaining unit desire such an election. In practice, most organizers gather cards from two thirds or more of the employees, since the share of cards is a signal of likely election success (Fiorito 2003, p. 200). If the organizers gather enough signatures to submit a petition, then the NLRB rules on, *inter alia*, the appropriateness of the suggested bargaining unit. Assuming that the NLRB goes forward with the unit as suggested or modified, the parties then come to an agreement over the type and date of election. Within seven weeks on average after the petition has been filed, the NLRB holds an election at the workplace. A simple majority of the votes cast is necessary for a win. If the union wins then the NLRB, contingent on objections to the conduct of the election, certifies the union as the representative for that bargaining unit. The employer is then obligated to bargain “in good faith” with the union for at least one

¹This diagram has been adapted from the summary in DiNardo and Lee (2004).

Table 2.1: Survival rates for stages of the organizing process

Stage	Cases	Rate	Non-ULP	ULP	No-ULP:ULP
Election petition filed	22382	n.a.	18429	3953	4.7:1
Election held	14615	.65	12410	2205	5.6:1
Election won	8155	.56	7053	1102	6.4:1
Contract agreed ^a	3180	.38	2777	403	6.9:1

a: Projected. This figure is based on dividing the 1940 FMCS records with contract agreements within one year by 0.61, the share of the total victorious election cases with matched FMCS records: $N_{proj} = \frac{1940}{.61} = 3801$. The figure is for contracts agreed within one year, the span of the contract bar. The rate for contracts agreed within two years is .56.

year. After an average of ten months, the two sides agree on the terms of a first contract. Such first contracts cover three years on average.

Long as it is, the above is an idealized process. It can break down at several points, the most important four of which are noted as choices in figure 2-1. The organizers can fail to gain enough signed cards to file an election petition. They can choose to withdraw their petition rather than to hold the election. They can lose the election. Even if they win the election, they may not reach a first contract with the employer.

2.3 Sequential model

Breaking the organizing drive down into stages shows how it resembles a screening process, where only some of the cases in each stage advance to the next. Per figure 2-1, of 22,382 organizing drives that filed an election petition, only a projected 3,180—one seventh—reached a first contract within a year of certification. Furthermore, table 2.1 shows that cases that experience a pre-election ULP charge are screened out at higher rates than other cases at each stage.

There are four exclusive outcomes for organizing drives that have filed petitions with the NLRB:

- A. The union can withdraw its election petition before an election is held ($Y_1 = 0$).
- B. The union can go through with the election and lose ($Y_1 = 1, Y_2 = 0$).

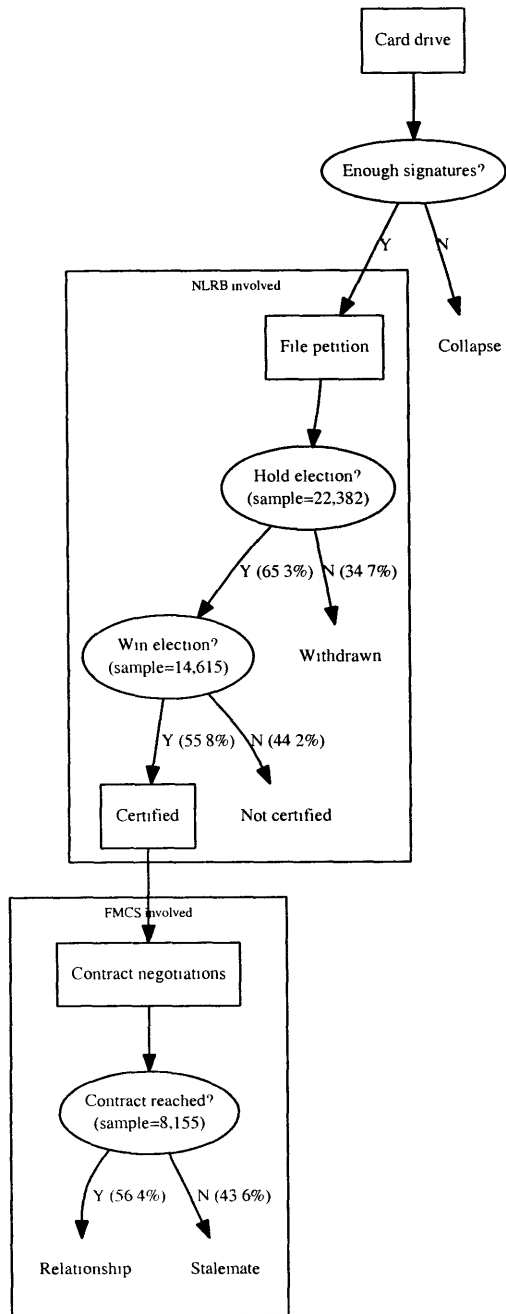


Figure 2-1: Major steps to first contract when organizing through an NLRB-certified election, with sample numbers

- C. The union can win the election but fail to secure a first contract with the employer ($Y_1 = 1, Y_2 = 1, Y_3 = 0$).
- D. The union can secure a first contract ($Y_1 = 1, Y_2 = 1, Y_3 = 1$).

The organizing drive can be modeled as a chain of binary variables Y_1, Y_2 and Y_3 that are realized sequentially. Stages 1, 2 and 3 represent the three screens—holding an election, winning that election and reaching a contract—through which a drive must pass. Later stages are subject to selection in earlier stages. Prior research on similar multistage processes (Lillard and Willis 1994; Upchurch et al. 2002) has modeled the outcomes of each stage as realizations of a latent variable. If y_j^* is the latent variable for stage j , then

$$y_j^* = x'_{ij}\beta_j + u_{ij}, \text{ and } \begin{cases} y_{ij} = 0 & \text{if } y_{ij}^* \leq 0 \\ y_{ij} = 1 & \text{if } y_{ij}^* > 0 \end{cases}$$

where i indexes organizing drives, $x_{i,j=1,2,3}$ are vectors of covariates and $\beta_{j=1,2,3}$ are vectors of parameters to be estimated. Some covariates, such as the unemployment rate, may be included in all three stages while others, such as what type of election agreement was signed, may only appear in certain stages. The parameters on particular covariates can but need not vary across stages.

The probabilities of each of the four outcomes A through D can then be written as follows:

$$\begin{aligned} P(A) &= P(u_{i1} \leq -x'_{i1}\beta_1) = \Phi(-x'_{i1}\beta_1) \\ P(B) &= P(u_{i1} > -x'_{i1}\beta_1, u_{i2} \leq -x'_{i2}\beta_2) = \Phi_2(x'_{i1}\beta_1, -x'_{i2}\beta_2 | \Omega_1) \\ P(C) &= P(u_{i1} > -x'_{i1}\beta_1, u_{i2} > -x'_{i2}\beta_2, u_{i3} \leq -x'_{i3}\beta_3) = \Phi_3(x'_{i1}\beta_1, x'_{i2}\beta_2, -x'_{i3}\beta_3 | \Omega_2) \\ P(D) &= P(u_{i1} > -x'_{i1}\beta_1, u_{i2} > -x'_{i2}\beta_2, u_{i3} > -x'_{i3}\beta_3) = \Phi_3(x'_{i1}\beta_1, x'_{i2}\beta_2, x'_{i3}\beta_3 | \Omega_3) \end{aligned}$$

where Φ , Φ_2 and Φ_3 are cumulative univariate, bivariate and trivariate normal densities, respectively. The Ω matrices require a brief explanation.

If the three stages were independent of one another, then each stage could be

estimated with an independent probit and the probability of passing through the entire process would equal the product of the probabilities of passing through each stage (Lahiri et al. 1995).² Yet there are strong reasons to expect the outcomes across stages of the organizing drive to be correlated. If for example the union's decision to withdraw depends on the likelihood that the union will win the election, then the error terms of $P(B)$ and $P(C)$ will be correlated.³ This is similar to assuming that $u_{ij} = \delta_i + \epsilon_{ij}$ with $\delta_i \sim N(0, \sigma^2)$ and $\epsilon_{ij} \sim N(0, 1)$, and interpreting δ_i as unobserved favorable (unfavorable) conditions in a workplace that make an organizing drive more (less) likely to succeed. Specifically this would imply that (u_{i1}, u_{i2}, u_{i3}) follows a multivariate normal distribution with mean zero and variance Ω :

$$(u_{i1}, u_{i2}, u_{i3})' \sim N \left(\begin{pmatrix} 0 \\ 0 \\ 0 \end{pmatrix}, \begin{pmatrix} 1 & \rho_{21} & \rho_{31} \\ \rho_{21} & 1 & \rho_{32} \\ \rho_{31} & \rho_{32} & 1 \end{pmatrix} \right)$$

The variances of the error terms are assumed to equal 1 so that the ρ_{ij} s can be interpreted as correlations across stages (Gao et al. 2001).⁴ The matrices $\Omega_1, \Omega_2, \Omega_3$ are then defined as follows:

$$\Omega_1 = \begin{pmatrix} 1 & \rho_{21} \\ \rho_{21} & 1 \end{pmatrix} \quad \Omega_2 = \begin{pmatrix} 1 & -\rho_{21} & \rho_{31} \\ -\rho_{21} & 1 & -\rho_{32} \\ \rho_{31} & -\rho_{32} & 1 \end{pmatrix} \quad \Omega_3 = \begin{pmatrix} 1 & -\rho_{21} & -\rho_{31} \\ -\rho_{21} & 1 & \rho_{32} \\ -\rho_{31} & \rho_{32} & 1 \end{pmatrix}$$

I therefore model the organizing drive as a three-stage correlated sequential probit. The correlation among the stages' error terms means that a joint marginal likelihood function must be maximized; see the technical appendix to Upchurch et al. (2002) for details of the procedure.⁵

The advantage of such a model can be seen, for example, when considering the effect of a ULP charge against the employer (denoted U) at some point between

²I.e., $P(D) = \Phi(x'_{i1}\beta_1)\Phi(x'_{i2}\beta_2)\Phi(x'_{i3}\beta_3)$.

³I am grateful to an anonymous reviewer for detailing the possible sources of correlation.

⁴This is also a necessary restriction for the model to be identified (Waelbroeck 2005).

⁵The correlated model is estimated using aML (Lillard and Panis 2003).

petition and election.⁶ Even if a single-stage model, $\tilde{P}(C) = \Phi(x'_{i2}\gamma_2)$, gives an unbiased estimate of $\hat{\gamma}_2^U$, the total impact of the ULP charge consists not just of its effect on electoral success but also of the changed likelihoods of holding an election ($\hat{\beta}_1^U$) and reaching a first contract ($\hat{\beta}_3^U$). Worse, the single-stage model *is* likely to give biased estimates of $\hat{\gamma}_2^U$ for the reasons discussed here. A single-stage election model is thus likely to mis-state the effect of the ULP charge on the final outcome of interest, a change in employment relations symbolized by a first contract, by $\hat{\beta}_1^U \hat{\beta}_3^U \rho_{12} \rho_{23} \rho_{13}$.

Modeling the organizing process as a single state introduces two further problems. First, it forces the covariates' parameters to be the same at each stage. This is unlikely to hold in reality. Three choice processes are at work in these drives. Some criteria will be relevant to the decision-makers at one stage and not to those at another, and so the coefficients should change. Second, a single-stage model either excludes observations that never reached contract negotiations or uses the covariates on cases that were screened out earlier to determine coefficients for the later outcome. A multi-stage model addresses both of these problems by allowing coefficients to vary between stages and by only considering the population of interest at each stage.

2.4 The study data

2.4.1 Data sources

Figure 2-1 shows that two federal agencies, the NLRB and the Federal Mediation and Conciliation Service (FMCS), become involved at different stages of the organizing drive. The NLRB formally oversees all election drives from the filing of the election petition to the certification of the election results. The FMCS *can* be involved in first-contract negotiations; pursuant to its interest in labor peace, in recent years it has tried to gather data on all first-contract negotiations. Freedom of Information

⁶For a detailed description of ULPs, see McGuinness and Norris (1986, p. 10–17).

Act requests were filed with both agencies, to request all of the NLRB's representation and ULP cases that were closed between 1 October 1999 and 1 June 2005 and all of the FMCS's first-contract cases over the same period. The starting date was chosen because in 1999 the NLRB switched to a new database system that complicated comparisons to previous records, and because the FMCS's effort to obtain information on all first-contract negotiations (discussed below) aimed to enter data back to that date. Because union certification directs the employer and employees' representative to bargain in good faith for one year before decertification or other actions can be proposed, this study uses NLRB cases closed through 1 June 2004 so that the FMCS records will contain the year's negotiating. The NLRB records yielded data for 22,382 cases after removing duplicated records and other data-entry errors.⁷ The representation cases' recording of ULP charges is incomplete. I therefore matched the representation cases with the case data for all the ULP charges closed during the same period.⁸ I found a ULP charge associated with just over one fifth of the representation cases.

To anyone familiar with union organizing in the United States, a one-in-five chance of a ULP charge might sound low. The figure is an artifact of when these drives become observable in the NLRB's records. The NLRB opens a representation case when a union, individual or employer submits a petition to hold an NLRB-certified representation election. To file such a petition, as described above, the filer must first have signed proof of at least 30-percent support among the employees in the proposed bargaining unit. The NLRB's records thus cover only those organizing drives that passed through the signature screen. Any ULP charges during a card drive will show up as ULP cases, but if the drive ends without filing a petition there will be no

⁷Virtually all the 14,002 eliminated records were duplications. When the NLRB added information to a case, the database often wrote these expanded records as new cases rather than overwriting the less-complete record. I removed fewer than 100 cases with other errors. The final number of cases, 22,382, is fewer than half of what it was over a similar period twenty-five years earlier (Heneman and Sandver 1983, p.537).

⁸Details of the matching process are in appendix A.

representation case to match it to. The share of drives that end in this early stage is difficult to estimate, but several researchers have cited anecdotal evidence that up to half of all organizing drives do end early on, when for example the prompt firing of a vocal union supporter stands a good chance of nipping the drive in the bud (Fiorito and Bozeman 1997; Cohen and Hurd 1998).⁹ The one-in-five figure should be interpreted thus: in one fifth of the organizing drives *that filed an election petition*, one of the parties *subsequently* filed a ULP charge.

I then matched these NLRB records with the FMCS's records on first-contract negotiations. The records needed to track the full organizing process have not been combined before, despite efforts up to and including the Dunlop Commission's work during the Clinton administration (Dunlop Commission 1994). Shortly after the Dunlop Commission issued its report in 1994, the NLRB and the FMCS resolved to cooperate to improve the services they provide to first-contract cases. As part of that cooperation, the NLRB agreed to give the FMCS copies of certifications issued by the Board and regional offices, and the FMCS agreed to assign those cases to mediators upon receipt. For several years the agencies traded paper records, which delayed action. In 2003, the two agencies established a monthly computer transfer of all newly certified units from the NLRB's records to the FMCS. The first transfer included the NLRB's recorded certifications back to 1 October 1999, when they switched to their new database. The FMCS began incorporating those records into its own case-tracking database, disseminating the relevant records to its field offices and assigning mediators. Meanwhile, Washington staff began back-filling the information for earlier certifications by cross-checking their own records and contacting bargaining units.

The FMCS had mixed success involving mediators in first-contract negotiations. In most cases the mediator could merely contact the parties by phone to confirm whether a contract had been reached. For this study's purposes, this limited involve-

⁹The NLRB staff members with whom I worked on assembling the data also said that they handled about as many complaints related to card drives as to later stages in the process.

ment is actually useful. In the past, FMCS contact with first-contract negotiations occurred only when the parties asked the agency for help; this obviously produced a self-selected sample of cases. With these data, though, the FMCS tried to contact all cases, including ones where it previously would likely not have done so.

The FMCS's efforts to gather case information for all first-contract negotiations is still incomplete; of all the representation cases that ended with certification of the union, I found a corresponding case in the FMCS's records for only 61 percent. To explore whether the remaining 39 percent of cases were unmatched at random, I performed a selection test on the observables in both datasets. I found no significant differences. This is a weak test for sample-selection bias because there is relatively little information in the NLRB records, but it is the strongest possible with the available data.

Data for additional controls came from several sources. The unemployment rate for each county-month in the sample comes from the Local Area Unemployment Statistics gathered by the Bureau of Labor Statistics. The data on the union density of each Metropolitan Statistical Area (MSA) come from Hirsch and Macpherson's analyses of the Current Population Survey (Hirsch and Macpherson 2004). Industry identifiers for all years were coded to be consistent with the 1997 NAICS codes published by the BLS. Party control of the NLRB was determined by the NLRB's list of board members since 1935. The presence of right-to-work laws was confirmed by checking the records of the National Right to Work Foundation.

The resulting dataset, which contains 14,754 cases with data present for all variables, paints a fuller picture of union gestation and birth than has been available on a national scale. The records track proposed bargaining units from the earliest point for which we have data through election to first-contract negotiation. In particular, most studies that have looked at the early effects of unionization have not had data on whether a first contract was *reached*, but only on whether a first contract *expired*

(DiNardo and Lee 2004, p. 256–257). Relying on contract expiration would be useless here, since all such cases must have reached a first contract. Gathering data on the first-contract negotiations avoids this censoring problem.

2.4.2 Variables

Since the model covariates change in each stage, they are grouped here by the stage in which they are introduced. Similarly, the reported results in table 2.3 include summary statistics for each covariate among the population of interest in that stage.

In stage 1 the dependent variable is whether an organizing drive holds an election or withdraws the election petition. The main independent variable of interest is whether the organizers filed a ULP charge before the election. There are several types of ULP charges. An 8(a)(1) charge corresponds to attempts to “interfere with, restrain, or coerce employees in the exercise of their rights to engage in concerted or union activities or refrain from them” and an 8(a)(3) charge corresponds to attempts “to discriminate against employees for engaging in concerted or union activities or refraining from them.” Such charges in particular are often associated with firings for union activity. Together these two charges account for 88.4 percent of the ULP charges filed. The remainder are gathered in the “other charge filed” category.

ULP charges are an awkward measure of illegal activity by employers because union organizers can file them for strategic reasons even when no illegal activity has taken place. The best though limited measure of the illegal activity involved in a ULP charge is whether the NLRB found the charge meritorious. Thus the model also includes six indicator variables: 8(a)(1) charges, 8(a)(1) charges found meritorious and similar pairs for 8(a)(3) and other charges. Table 2.2 shows the resulting breakdown of cases. The comparison group are the cases for which no ULP charge was filed.

Table 2.2: Breakdown of cases by experience of pre-election and post-certification ULP charges

Total cases						
14754						
ULP filed						No ULP filed
2627						12127
8(a)(1)	8(a)(1), merit	8(a)(3)	8(a)(3), merit	Other	Other, merit	
644	749	387	165	519	163	
Won certification election						
124	145	85	26	145	40	5356
Post-certification ULP charge						
40	20	10	6	20	5	591

Note: Sample of cases broken down here includes all cases used in subsequent analysis.

Stage 1 also includes delay, measured as the log number of days between the filing of the petition and either the election or withdrawal. Because unions have some control over the election date through their choice of when to file the petition, most research has assumed that they strike while the iron is hot (Freeman and Kleiner 1990). Delays are therefore time in which employers can campaign against the union (Riddell 2004) and doubt can form in the employees' minds (Montgomery 1989). Yet the negative relationship between delays and organizing success has rarely been attributed to delay itself but rather to unfavorable events, such as employer opposition or clarification charges about the scope of the bargaining unit, that both produce delay and make victory less likely. Here therefore delay is included as a control, to try to capture the impact of ULP charges distinct from other conditions that would produce delays.¹⁰ Since all organizing drives take a certain amount of time between petitioning and election, the effect of delay is expected to be positive but decreasing.

Larger bargaining-unit size has long been hypothesized to lower the likelihood of organizing success (see for example Flanagan (1989)). This stage measures size using

¹⁰The average case that goes to election does so in 41 days, and 95 percent of elections are held within 75 days of filing. The tail however is quite long; the maximum delay before election recorded in the data is 1,705 days. The relationship between delay and withdrawal is noticeable when all cases, not just those that go to election, are considered. The average time to election *or* withdrawal is 50 days, and the 95th percentile is open for 234 days.

the log number of employees on the election petition because the NLRB's determination of the specific boundary of the bargaining unit happens later and may not happen at all for a drive that withdraws its petition. The unemployment rate is assumed to be inversely related to organizing success, since workers have less fear of termination or other employer retaliation in tight labor markets (Hoxie 1923). The effect of union density in a given area (here, the MSA) has been debated: Lipset et al. (1956) argued that the relationship would turn negative as unions moved from the easy to more difficult drives, but most researchers have assumed that union density proxies for a pro-union climate and thus will have a positive effect (Hurd and McElwain 1988). The presence of right-to-work laws is often used as a proxy for an anti-union climate (Montgomery 1989), though the mechanism by which the laws would lower success rates has rarely been specified (Wessels 1981). The model includes two time-period indicators: one for whether the organizing drive took place under the Bush administration with a Democrat-controlled Board and for the Bush administration with a Republican-controlled Board.¹¹ The comparison group are cases from the Clinton administration. Finally the model controls for union and three-digit industry. The comparison group are SEIU organizing drives in the nursing industry.¹²

Most of these variables' effects have been proposed in terms of predicting election outcomes. Farber (2001) for example suggested that larger units would be less likely to vote for a union because votes follow a binomial distribution and thus anything that lowered (or raised) the underlying average propensity to vote union would have a larger effect on outcomes in larger units. If the negative effect of unit size really is just an artifact of the underlying vote distribution, then we would not necessarily

¹¹Democrats controlled the Board during Bush's first year in office; retirements and new appointments in January 2002 gave control to the Republicans.

¹²The SEIU and nursing are the second-most common union and industry, respectively, in the data. The Teamsters and specialty construction are the most common. To give the union and industry coefficients some more substantive meaning, I chose a group that was relatively generalizable on both dimensions. The SEIU has been active in many industries and many unions have tried to organizing nursing employees.

see any such effect of unit size *before* elections. Right-to-work laws are normally posited to reduce union-organizing success by reducing employees' incentive to join a union whose benefits they will in either case receive. If employees are aware of such laws and their effects, then they should be unenthusiastic about organizing drives in general. In this case, then, the effects would be *more* likely to show up before elections. By examining this earlier stage we can look for different effects of these and other controls.

In stage 2 the dependent variable is a binary variable recording union election victory. This is the stage that most previous studies have modeled (cf. Cooke (1983)). The main independent variables remain the existence of various pre-election ULP charges. Bargaining-unit size is here measured as the log number of eligible voters. The model controls for whether an election agreement was signed and whether that agreement was a "consent" or "stipulated" agreement (Cooke 1983; Peterson et al. 1992).¹³ Stage 2 also includes delay and the other controls from stage 1. Because the population considered in stage 2 all go to election, the initial positive effect of delay from stage 1 should not appear; instead, the negative effect should dominate.

In stage 3 the dependent variable is reaching a first contract with the employer. The FMCS followed newly-certified units for up to two years and noted both whether and when a contract was negotiated in that time span. For the purposes of the law, though, the important question is whether the two parties negotiated a contract within one year of certification—the "contract bar" period during which neither the employer nor other unions may challenge the certified union's status as the employees' representative. Thus the contract variable is coded one when a contract is reached within one year of certification and zero otherwise.¹⁴

¹³Consent elections were extremely rare in this period; only 1.13 percent of the cases that signed election agreements signed consent agreements.

¹⁴Two thirds of the recorded contracts in the data were reached in one year; 95 percent were reached within two years. Coding all contracts reached in the data, regardless of time between certification and contract, produces similar results. Tables showing this more generous specification of the dependent variable and other analyses are available from the author upon request.

ULP charges are more complicated in this stage. This is because the parties can file new ULP charges (typically 8(a)(5) charges over the employer’s refusal to bargain) during contract negotiations. The model therefore includes an indicator of whether a ULP charge was filed after certification.¹⁵ It also includes interaction terms between the post-certification ULP charge and any earlier ones, to check whether the combined effect is stronger than the two in isolation.

Stage 3 also includes *certification* delay, measured as the log number of days between the election and the NLRB’s final certification of the union. Here again delay is a proxy for other factors that are likely to influence the tenor of the negotiations.¹⁶ The unit size can now be measured directly. Other controls are implemented as in stages 1 and 2. Table 2.3 reports the summary statistics for the covariates in each stage.

2.5 Data analysis

Table 2.4 reports the regression results. It shows two models. In the first, the three stages have been estimated independently of one another. In the second, the error terms across the stages have been allowed to be correlated, to help account for endogeneity between the stages.

The strong and significant correlation between the first two stages’ errors ($\rho_{e\eta}$ in table 2.4) suggests that endogeneity is present in the process—most likely, that

¹⁵The bulk of evidence for these charges came from the FMCS’s records, where the relevant section of the NLRA is not cited. Therefore I do not distinguish different types of post-certification charges.

¹⁶As with the other stages, delays in certification tend to be non-existent or quite long. Half of all cases are certified within a week and a half of the election, and three quarters within three weeks; but the 95th percentile are not certified for more than five months, and the longest wait was eighteen months after the election.

Table 2.3: Summary statistics for regressions

Variable	Stage		
	1	2	3
Election held	.672	.	.
Election won	.	.559	.
Contract reached	.	.	.383
8(a)(1) charge filed	.044	.041	.033
8(a)(1) charge with merit	.051	.041	.039
8(a)(3) charge filed	.026	.025	.024
8(a)(3) charge with merit	.011	.008	.010
Other charge filed	.035	.028	.028
Other charge with merit	.011	.009	.011
Post-certification ULP charge	.	.	.138
Log employees on petition	3.210	.	.
Log eligible voters	.	3.297	.
Log bargaining-unit size	.	.	3.133
Consent agreement	.	.008	.
Stipulated agreement	.	.880	.
Log election delay	3.522	3.738	.
(Log election delay) ²	12.983	14.113	.
Certification delay	.	.	2.734
(Certification delay) ²	.	.	8.144
Unemployment rate	5.330	5.283	5.154
MSA density	10.965	10.988	11.156
Right-to-work state	.170	.167	.167
Bush admin, Dem. Board	.173	.171	.208
Bush admin, Rep. Board	.554	.544	.450
Observations ^a	14754	9919	3613

a: The number of observations given correspond to the different regression models where the variable first appears.

Table 2.4: Independent and correlated sequential probit results for holding and winning elections and reaching first contracts

Covariates	Model 1: Without Endogeneity	Model 2: With Endogeneity
<i>Stage 1: Holding election (N = 14754)</i>		
Constant	-14.9254*** (0.2440)	-20.8003*** (0.3340)
8(a)(1), non-merit	-0.4089*** (0.0595)	-0.5880*** (0.0840)
8(a)(3), non-merit	-0.2582*** (0.0759)	-0.3959*** (0.1069)
Other ULP, non-merit	-0.7139*** (0.0615)	-1.0399*** (0.0877)
8(a)(1), merit	-0.5158*** (0.0550)	-0.7149*** (0.0773)
8(a)(3), merit	-0.6624*** (0.1118)	-0.9980*** (0.1592)
Other ULP, merit	-0.4540*** (0.1237)	-0.6841*** (0.1775)
Log employees on petition	0.0029 (0.0119)	0.0023 (0.0166)
Log election delay	7.5366*** (0.1024)	10.4961*** (0.1387)
(Log election delay) ²	-0.8610*** (0.0111)	-1.1965*** (0.0149)
Unemployment rate	-0.0256*** (0.0095)	-0.0350*** (0.0132)
MSA density	0.0039 (0.0038)	0.0064 (0.0054)
Right-to-work state	0.0342 (0.0435)	0.0496 (0.0612)
Bush admin., Dem. Board	-0.0838** (0.0405)	-0.1088** (0.0569)
Bush admin., Rep. Board	-0.0226 (0.0367)	-0.0336 (0.0516)
Three digit NAICS		<i>yes</i>
Union		<i>yes</i>

Continued on next page

Table 2.4: (Continued)

Covariates	Model 1: Without Endogeneity	Model 2: With Endogeneity
<i>Stage 2: Winning election (N = 9919)</i>		
Constant	3.7781*** (0.5829)	11.1359*** (2.0162)
8(a)(1), non-merit	-0.2270*** (0.0660)	-0.1347 (0.1075)
8(a)(3), non-merit	-0.0360 (0.0812)	0.0516 (0.1142)
Other ULP, non-merit	-0.1206 (0.0794)	0.1038 (0.1419)
8(a)(1), merit	-0.0300 (0.0680)	0.1338 (0.1111)
8(a)(3), merit	-0.0719 (0.1415)	0.1383 (0.2065)
Other ULP, merit	0.1391 (0.1394)	0.3784* (0.2000)
Log eligible voters	0.0061* (0.0033)	-0.2332*** (0.0167)
Consent agreement	0.2395 (0.1679)	0.2910 (0.2212)
Stipulated agreement	0.3131 (0.1955)	0.3541 (0.2888)
Log election delay	-1.4963*** (0.2720)	-4.4184*** (0.9501)
(Log election delay) ²	0.1507*** (0.0317)	0.4950*** (0.1112)
Unemployment rate	0.0344*** (0.0098)	0.0521*** (0.0137)
MSA density	0.0039 (0.0036)	-0.0016 (0.0051)
Right-to-work state	-0.0318 (0.0430)	-0.0051 (0.0610)
Bush admin., Dem. Board	-0.0005 (0.0400)	0.0208 (0.0572)
Bush admin., Rep. Board	0.0204 (0.0354)	0.0267 (0.0499)
Three-digit Naics Union		<i>yes</i> <i>yes</i>

Continued on next page

Table 2.4: (Continued)

Covariates	Model 1: Without Endogeneity	Model 2: With Endogeneity
<i>Stage 3: Reaching contract (N = 3613)</i>		
Constant	-1.5862*** (0.3171)	-2.1434*** (0.5449)
8(a)(1), non-merit	0.0290 (0.1287)	0.0985 (0.1993)
8(a)(3), non-merit	-0.1169 (0.1646)	-0.1563 (0.2345)
Other ULP, non-merit	-0.2556 (0.1577)	-0.3229 (0.2404)
8(a)(1), merit	-0.2579** (0.1277)	-0.3026 (0.1928)
8(a)(3), merit	0.5316** (0.2822)	0.6712 (0.4084)
Other ULP, merit	0.3713* (0.2164)	0.5129 (0.3137)
Post-certification ULP	-0.5361*** (0.0783)	-0.7616*** (0.1336)
Interaction: Post ULP times,		
8(a)(1), non-merit	-0.8755* (0.5096)	-1.2440* (0.7142)
8(a)(3), non-merit	0.3575 (0.5141)	0.5546 (0.7385)
Other ULP, non-merit	-0.1196 (0.5216)	-0.0946 (0.7398)
8(a)(1), merit	-0.1499 (0.5185)	-0.2450 (0.7250)
8(a)(3), merit	-0.1640 (0.8117)	-0.1256 (1.1347)
Other ULP, merit	60.2688 (0.0000)	60.2688 (0.0000)
Log bargaining-unit size	0.0001 (0.0006)	0.0250 (0.0516)
Log certification delay	0.6971*** (0.1830)	0.9847*** (0.3038)
(Log certification delay) ²	-0.1270*** (0.0281)	-0.1762*** (0.0469)
Unemployment rate	0.0240 (0.0166)	0.0282 (0.0252)

Continued on next page

Table 2.4: (Continued)

Covariates	Model 1: Without Endogeneity	Model 2: With Endogeneity
MSA density	0.0068* (0.0064)	0.0087 (0.0092)
Right-to-work state	0.0047 (0.0767)	0.0138 (0.1105)
Bush admin., Dem. Board	-0.0659 (0.0609)	-0.0768 (0.0871)
Bush admin., Rep. Board	-0.3189*** (0.0531)	-0.4713*** (0.0784)
Three-digit NAICS		<i>yes</i>
Union		<i>yes</i>
$\rho_{\epsilon\eta}$		-0.8649** (0.3539)
$\rho_{\epsilon\nu}$		-0.0113 (0.1862)
$\rho_{\eta\nu}$		-0.5017 (0.5220)
Log-likelihood	-1505.52	-1421.58

Asymptotic standard errors in parentheses. $P < .1$; ** $P < .05$; *** $P < .01$. All models include controls for 3-digit industry and union. $P_b = .65$, $P_c = .56$, $P_d = .38$. A longer table showing all industry and union coefficients is available from the author upon request.

unions' decision to withdraw their petitions is based in part on their expectations of election success. And while the signs and significance levels are largely unchanged across the two models, the point estimates do differ between them, suggesting that the coefficients in model 1 may suffer from endogeneity bias. I therefore focus on the coefficients reported in model 2 and compare them to model 1 when appropriate.

All ULP charges, with meritorious findings and without, are significantly and negatively correlated with holding an election, and meritorious charges are generally associated with stronger negative effects, as expected. Some idea of the magnitude of these effects can be calculated by considering the change in the probability of holding an election associated with the presence of a ULP charge. The likelihood that an SEIU organizing drive in nursing (the comparison category) that faces the mean delay and unemployment will hold an election is .624. Following Petersen (1985), we can calculate the change in probability of holding an election given a meritorious 8(a)(3) charge (denoted F) as

$$\Delta P = \frac{P(B|F = 1) - P(B|F = 0)}{P(B|F = 0)} = \frac{\phi(x'\beta_1 - \beta_1^F) - \phi(x'\beta_1)}{\phi(x'\beta_1)}$$

where β_1^F is the coefficient on a meritorious 8(a)(3) charge given in model 2 of table 2.4 and ϕ is a standard normal distribution.¹⁷ In this case, the change in probability is equal to -.394, i.e., cases that experience meritorious 8(a)(3) charges are nearly 40 percent less likely to hold elections than comparable cases with no such charge. Table 2.5 shows results for similar calculations for all types of ULP charges as well as the mean effect across types. The mean effect is a 25-percent higher chance of withdrawal. This reduction is smaller than the 34-percent reduction that the independent sequential model estimates, which is also consistent with the idea that some cases that both withdraw and file ULP charges do so with the expectation of poor performance in the election. The independent model attributes that negative effect

¹⁷The same procedure is used to interpret coefficients elsewhere in the paper.

Table 2.5: Changes in probability of holding an election based on ULP charges

Charge type	Merit	ΔP (%)	N
8(a)(1)	N	-16.5	644
8(a)(3)	N	-2.6	387
Other	N	-44.1	519
8(a)(1)	Y	-25.6	749
8(a)(3)	Y	-39.4	165
Other	Y	-21.8	163
Mean		-24.6	2627

Results based on correlated sequential probit. A model without endogeneity produces a mean effect of -34.1 percent.

to the charge and thus overstates its impact. Still, the negative effect is significant and substantial even after correcting for endogeneity.

The controls are mostly significant in the expected directions. Delay’s effect is curvilinear, and the positive effect peaks at day eighty, which is well within the sample but after most drives that ultimately go to election have done so. Raising the unemployment rate by a percentage point lowers the probability of holding an election by almost 15 percent—non-trivial, but smaller than the effect of most ULP charges. Unit size, MSA density and right-to-work status are not significant at this stage. The first two years of the Bush administration, with a Democrat-controlled Board, were less likely to see drives go to election than earlier or later periods.

In stage 2 the effects of ULP charges are insignificant.¹⁸ This is consistent with earlier findings (Ahlburg 1984; Cooke and Gautschi 1982) and with the assumption that organizers self-select into election. The negative effect of unit size appears here as it did in earlier studies: a one-standard-deviation increase in the log number of voters (from a the mean of 27 to 97) reduces the likelihood of electoral success by 38 percent. Delay here is negative and decreasing, with a minimum at 88 days. Unemployment somewhat surprisingly is positively correlated with election victory, though this too

¹⁸“Other” charges, found meritorious, are more likely to win elections. There is no obvious explanation for this effect, given the composite nature of the category.

jibes with organizers' deciding to press on with elections rather than withdraw despite the unemployment rate. There are no significant period effects.¹⁹

In stage 3 delays in certification do have positive and then negative effects, peaking at 12 days. Since half of all units are certified within 10 days of a victorious election, it makes sense simply to think of any delays in certification as being negatively correlated to reaching a contract. Also in this stage as in stage 2 the direct effect of ULP charges is not significant.²⁰ ULP charges filed after certification however have a large negative effect: cases with such charges are 77.7 less likely to reach a first contract than cases with no such charge. The impact is larger in cases where 8(a)(1) charges had been filed before the election, where contracts were then 89 percent less likely. One further and worrying effect in the model is the declining likelihood of reaching a first contract over time. Representation cases that were concluded under the Republican-majority Board were considerably less likely to reach agreement than comparable cases earlier in the study period.

Modeling the process this way allows us to calculate the cumulative relationship between ULP charges and the final outcome, to see where in the process ULP charges “bite.” This is done by conditioning later outcomes on the estimated probability of achieving earlier outcomes. Table 2.6 shows the likelihood of success in each stage, varying by the presence and type of ULP charge. The top row, “No ULP filed,” shows the likelihood of success in the absence of a pre-election ULP charge. The *cumulative likelihood* of success can then be calculated as the product of these likelihoods, with one caveat: because later ULP charges can occur, the probability of reaching a contract is a weighted average of the probabilities of reaching a contract when there

¹⁹Electurally, the SEIU is one of the most successful unions. Using it as the comparison group is thus a conservative test for ULP effects. Including interaction terms for all the unions requires too many variables for most programs to estimate. Estimating a model with no union controls (available upon request) produces weakly significant negative effects for 8(a)(1) charges with and without merit, which suggests that there is further fallout from such charges during elections for some unions.

²⁰In both stages the independent model shows negative effects for 8(a)(1) charges, but these effects disappear when correlation between the events is accounted for.

Table 2.6: Likelihoods of success in different stages by presence and type of ULP charges; including average and cumulative effects of a ULP charge

Was a ULP charge filed before election?	Likelihood of success				Cumulative likelihood	Δ (%)
	<i>b</i>	<i>c</i>	<i>d</i>			
			\tilde{U}	<i>U</i>		
No ULP filed	.624	.558	.410	.093	.129	.
8(a)(1) filed, n.m.	.521	.558	.410	.045	.085	-34
8(a)(3) filed, n.m.	.608	.558	.410	.093	.126	-3
Other ULP filed, n.m.	.349	.558	.410	.093	.071	-45
8(a)(1) filed, m.	.464	.558	.410	.093	.095	-26
8(a)(3) filed, m	.378	.558	.410	.093	.071	-45
Other ULP filed, m	.488	.625	.410	.093	.104	-52
Average ULP	.491	.562	.410	.081	.091	-30
Average change in likelihood of success (%)	-25	1	0	-13	-30	

Note: All probabilities and calculations used to produce this table are available in appendix B. *b*: Holding election; *c*: Winning election; *d*: Reaching a contract; \tilde{U} : No later ULP charge; *U*: Later ULP charge.

is and is not a later charge.²¹ Thus for a union with no pre-election ULP charges, the likelihood of eventually reaching a contract with the employer within the first year after certification is 12.9 percent. The other rows show the likelihoods of success given various ULP charges. Their cumulative likelihoods are calculated similarly.

The impact of a ULP charge at each stage and the cumulative impact vary considerably by the type of charge filed. The most common type of charge, the 8(a)(1), is associated with lower likelihoods of success in the first and third stages and a 34-percent lower likelihood of passage through the entire process. Only 8.5 percent of such cases can expect to complete the process. The effect is of similar size whether

²¹Here, $P(D) = P(B)P(C)[P(D|U = 0)P(U = 0) + P(D|U = 1)P(U = 1)]$, where *U* is a post-certification ULP charge. For cases with no pre-election ULP charges, $P(U = 1) = .124$.

or not the NLRB found the charge meritorious. On the other hand, 8(a)(3) charges show striking differences depending on merit findings. While non-meritorious charges have very little effect on the final outcome, meritorious charges reduced the likelihood of success by almost half.

The bottom two rows of table 2.6 show the *average likelihood* of success given a ULP charge, defined as the sum of the likelihood of success given each type of charge times the probability that a charge was of that type. In practice there is no such average charge, but this figure gives an estimation of the expected effect of a ULP charge of indeterminate type. Thus for example a ULP charge is associated with a 25-percent lower likelihood of holding an election, as table 2.5 also showed. These average effects yield a cumulative likelihood of 9.1 percent for passing through the entire process. This is 30 percent lower than the 12.9-percent rate for no ULP charges. Furthermore, the bulk of this reduction comes from two places: the reduction in the likelihood of holding an election charges) and the increased likelihood of exposure to ULP charges after certification. While 12.9 percent of cases without pre-election ULP charges experienced a subsequent charge, 18.5 percent of those with pre-election charges did so.

2.6 Discussion

Consistent with a view of union organizing as a multistage process, covariates appear to have different effects on the “sifting and sorting” (Fernandez and Weinberg 1997) of cases at different points in the process. Unit size for example does seem to matter in determining election outcomes but not in the decision to hold elections or the contract negotiations. ULP charges meanwhile bite where unit size does not. The data also demonstrate a worrisome recurrence of ULP charges: in cases where charges were filed yet the union went ahead with and won the election, employers do not appear

deterred.

Some limitations of this study should be noted. ULP charges noisily measure unfair labor practices—there is a risk of false positives and false negatives. Yet that measurement error should bias the coefficients on charges toward zero. There is little reason to think that measurement error has inflated the coefficients reported here. Endogeneity on the other hand could bias the coefficients upward (Lawler 1984; Freeman and Kleiner 1990; Koeller 1992). Comparison of the independent and correlated sequential models suggests that endogeneity *is* an issue in this phenomenon, particularly in the relationship between petition withdrawals and electoral success. Union organizers almost certainly withdraw based on their expected performance in the election; if organizers in that position are also likely to file ULP charges, then the impact of those charges will be overestimated. Similarly, employers probably commit unfair labor practices when they think doing so will have the greatest effect. Weaker drives will thus be exposed to ULPs more often, but it will be the weakness of the drive that provokes the ULP and not vice versa.²² It is notable that calculating the average cumulative effect of ULP charges using the results from the independent model (available on request) suggests a 58-percent reduction in the likelihood of final success, rather than the 30-percent reduction yielded by the correlated model. Half the effect, in other words, is an artifact of endogeneity. Yet the 30-percent reduction that remains after allowing for endogeneity is still daunting, particularly when applied to an already small likelihood of success.

A central implication for policy that comes from this study is that the organizing process is literally broken. If workers who have expressed interest in voting whether to have a union have only a one-in-five chance of ultimately reaching a first contract, or a one-in-eleven chance when there is a ULP charge, then workers will quite rationally decide that the union certification process is not a worthwhile investment. While the

²²In this second case, the “true” effect of the ULP charge would still be negative, for it is precisely because they think that their actions will encourage withdrawal that employers would choose to act.

NLRB election procedure can be modeled as a screening process, it was not *designed* to function this way. As designed, there were two screens: the signature requirement and the election. All of the cases observed here have by definition met the signature requirement. The period before the election was not supposed to last months or years (Miller and Leaming 1962). Nor were one of every three cases expected to give up before holding an election, given the workers' stated preference for holding one. There certainly were not supposed to be attrition rates surpassing 40 percent in the interval between recognition and contract agreement. Yet even the generous 56-percent agreement rate within two years seen here is lower than that estimated more than a decade ago (Dunlop Commission 1994).

The second policy implication is not new: policies geared to change or support workers' preferences for or against unions may be misdirected. The high rate of withdrawal and deadlock during contract negotiations imply both that workers who want unions often get no chance to express that desire, and that workers who have chosen unionization are effectively blocked from implementing it. Consequently, policy reforms or union tactics that increase the likelihood that a worker will vote for unionization should be considered as a part of this longer process. A 10-percent increase in voting must be modified by the 62-percent chance of coming to election at all and the 38-percent chance of negotiating a contract. Relatedly, the intrinsic value of elections should be qualified by how many workers never get the chance to vote in one. This work poses no definitive support for either position in the current debate over card-check versus electoral recognition, but it does suggest that, *ceteris paribus*, substantially more workers would have been organized into unions between 1999 and 2004 if the signature screen were the final one.²³ Furthermore, support for elections, on whatever grounds, should be backed up by support for additional reforms that will

²³This point should be tempered by the realization that, were the signature screen the final bar to union recognition, we would almost certainly see earlier employer resistance. It is wrong to say that *all* the organizing drives seen here to pass the signature bar would have done so under a card-check regime.

raise workers' chances of *holding* elections.

A tactical implication is that union organizers who choose to hold elections despite having filed ULP charges may be too optimistic about their long-term relationship with the employer. While it is true that, conditional upon choosing to have an election, ULP charges are not associated with worse election outcomes, such cases are half again as likely to face new ULP charges during contract negotiations. The contract-agreement rate for this group is a dismal 25.4 percent. Given the difficulty of reaching a contract in all other drives it is questionable whether these acrimonious negotiations are a good use of scarce union resources. Unions may have other reasons for pushing such drives and will continue to do so; but it is worth considering this additional cost when evaluating the relative benefits of such perseverance.

The central research implication of this study is that union organizing in America is both a more complex and a more strategic process than previous work that focused on the elections implied. Much of the work on worker preferences for unionization trained a behavioral lens on organizing and tried to determine what forces would influence individuals' voting (Getman et al. 1976). This study suggests that such an approach gives workers' preferences too much influence in predicting outcomes. In the stages before and after elections, unionization can be thwarted despite workers' strong preferences for it. Thus this study supports other recent work that has tried to consider individual employees' preferences as well as the opportunity structure in which those preferences can be expressed (Riddell 2004).²⁴

A sequential approach like the one used here complicates earlier research findings. If there are multiple mechanisms by which ULPs could influence organizing success,

²⁴There is a parallel here with the evolution of status-attainment research in sociology, where the focus shifted over time from individual-specific determinants of financial or social success, like education, to including organizational characteristics that influenced the opportunities that any given individual faced (Baron and Bielby 1980, 1985). Certainly we need accurate and current understandings of what precisely employees want from their relationships with their employers (Freeman and Rogers 1999), but without knowing the legal and organizational hurdles that must be cleared to build such relationships, we cannot fully explain the gap between preferences and outcomes in the workplace.

depending on the stage of the process considered, then there may also be multiple mechanisms by which corporate characteristics (Maranto 1988), unit size (Farber 2001), attitudes and normative pressures (Montgomery 1989) or other determinants have their effects. In particular, the different decision-makers at different stages (union organizers in stage 1, workers in stage 2, business agents in stage 3) mean that many effects will be stable across stages only insofar as they work through different agents in the same way. Yet this approach also offers a way to resolve some of those complications. Future research could test between alternative explanations for phenomena that make identical predictions at one stage, if those explanations make different predictions at another stage. This study has for example a crude test between some theories of unit size. Larger units are less likely to win elections but no less likely to hold them. Theories based on free-riding (Olson 1965) and theories based on the probability distributions of votes (Farber 2001) both predict that larger units will win elections at lower rates, but a free-rider theory should also predict that larger units would hold elections at lower rates. Thus the results presented here give tentative support to a probabilistic explanation for unit size's effect over the free-ridership explanation. Similar tests could be implemented to judge between other proposed mechanisms.

There is one other, more specific, research implication. Cases that filed 8(a)(3) charges during this period appear to have been quite different than those studied in earlier periods (compare Kleiner (1984)). Why non-meritorious charges had so little effect compared to meritorious ones is a mystery, particularly given the more comparable effects of non- and meritorious 8(a)(1) charges.

2.7 Conclusion

Two developments encouraged the quantitative study of union-organizing drives. The first was the NLRB and the AFL-CIO's systematic collection of administrative data on representation drives (Miller and Leaming 1962; Rose 1972). The second was the steady erosion of union success in those drives, from the mid-1970s onward. Thirty years after Getman et al. (1976) sparked the first long debate about why and how workers choose to join or avoid unions, it seems that interest in the administrative details of union representation campaigns has faded. The difficulties with forming labor unions in the United States are so obviously tied up with broader systemic problems that focusing on procedural failings may seem pedantic.

This study rejects such a view. To understand *which* systemic problems have the greatest impact on the growth and decline of the trade-union movement, we need theory and models of where and how those problems interact with the union-organizing process. This will require an extended institutional model of process, one that includes successively earlier and later stages. As this study shows, such work will raise new questions even as it offers answers for old ones. By assembling national data for a larger portion of the organizing process than has heretofore been assembled, by accounting for the endogeneity that characterizes choice-based selection models (Ben-Akiva et al. 1997) and by demonstrating sequential, cumulative effects over the course of that process, this study takes the first step in that direction.

Future research could move forward on three fronts. First, of course, more controls could be added. Second, the scope of the process could be broadened. For example, this paper does not model the card drive, on which no systematic data is collected. While the card drive is beyond the purview of the NLRB, individual unions often have records of their abortive organizing drives. These could be appended to create a subset of these data that has information for the earliest stage. This implies that we should be wary of drawing a simple dichotomy between "formal," NLRB-supervised

and -certified organizing drives and “informal” ones. Even the “formal” drives have an informal component—the card drive—that is poorly documented and researched. “Informal” voluntary-recognition drives, in turn, may be more common after formal organizing drives have failed. For example, are ULP charges in an earlier period associated with corporate campaigns and neutrality agreements in a later period? The basic logic of extending the scope of the process remains the same here, and suggests a way to model shifts from one type of organizing effort to another.

Third, measures of institutional stability or decline could be added to the data. If we think that union decline results in part from larger transformations in the economic, legal or regulatory environment, then we should be able to hypothesize both whether a particular institutional change should affect organizing drives’ prospects and at what point in the process the effects should be felt. This third front would have to be the hardest-fought, insofar as the theory and empirics are the least developed, but it holds the most potential for tying our theories of organizing success and failure into wider discussions of changes in the employment relationship (Osterman and Burton 2004; Powell 2001).

The decline of unionization may have implications beyond labor-management relations. Markets rely on a constellation of institutions, some informal but many formal and legal, to function (Polanyi 1944; Granovetter 1985; World Bank 2002). If union decline involves the erosion of other social and economic institutions, such as the rule of law or regulation in the economy, then that decline should be cause for broader worry. A better understanding of where ULP charges affect the organizing process, and thus what institutions their presence implies are being eroded, will help us decide how concerned we should be.

Chapter 3

Space Invaders: Social Valuation and the Diversification of Union Organizing Drives, 1961–1999

This essay develops a theory for why “audiences” who have traditionally preferred organizational “candidates” with clearly defined and specialized identities would come to prefer generalists. Such a transformation is demonstrated in the evolution of trade-union organizing in the United States between 1961 and 1999 away from exclusive industrial jurisdictions and toward diverse organizing. While the shift from specialists to generalists has been a puzzle for organizational research, this study proposes that the puzzle stems from a false dichotomy generated by considering categories as ends in and of themselves rather than as the first step in a social process of valuation. When audience members develop new theories about how organizations help them meet specific ends, they change the criteria they use to sort and rank organizations. These new dimensions can be orthogonal to the old ones and thus give the appearance of successful generalists. This study develops an empirical strategy for identifying changes to an audience’s theory of value based on detailed interviews with union

organizers and staff who were active during the era of upheaval. It proposes that changes to the role structures that support stable systems of categorization are the starting point for such changes, and that intermediaries that previous work have focused on for identification reasons may have major causal impact on such systems. The theory is corroborated using archival data on organizing drives filed with the National Labor Relations Board over the time period.

3.1 Introduction

It isn't useful to go over the things you can get them in the negotiations... You have to show them that you can get into those negotiations at all. And that means you talk up how you've unionized other groups of employees. [Interviewer: Similar employees, normally?] It helps, but they don't have to be. *When you're selling yourself as an organizer*, it's almost more impressive to say that you've brought in *all kinds of different workers*, because it shows that you can handle a lot of different challenges. [Carlos, a retired union staff member; emphasis added]

On June 1, 1999, San Francisco bicycle messengers working for the UltraEx courier firm voted to join Local 6 of the International Longshore and Warehouse Union (ILWU). The election—the first won by bike messenger organizers in San Francisco in decades, and the first signed with UltraEx anywhere in more than ten years Lazarus (2000)—was the fruit of considerable prior work. Bike couriers had formed the San Francisco Bike Messengers Association (SFBMA) in 1990, at a time when couriers' pay, job security and public image were at all-time lows. The SFBMA began largely as a social group, but it brought together couriers from different firms and—particularly through events like the Cycle Messenger World Championships (CMWC), the “Courier Olympics”—different cities. At the 1996 CMWC, held in San Francisco, many of the city's messengers got their first systematic evidence that messengers elsewhere had far better pay and working conditions than they did (Williams 1999). In early 1997 the SFBMA formally declared its activist role as a labor-advocacy group

for bike messengers, and in May 1998 it entered a working agreement with the ILWU. The UltraEx victory was the first of several; today the ILWU's Local 6 organizes many of the bike couriers, foot messengers, driving messengers, dispatchers and office workers in the San Francisco area (SFBMA 1998).

Successful union organizing in the United States is rare enough today that the SFBMA's mere formation is anomalous, but there are two other puzzles nested in these events. First, why did the bike couriers affiliate with the ILWU? They had other options. The SFBMA could for example have petitioned the National Labor Relations Board (NLRB) as an independent labor union. Couriers could also have affiliated with a different union. Furthermore, the American labor movement—in particular, the AFL-CIO—has had an explicit system of jurisdictions for its member unions since its 1882 beginnings as the AFL, a system that included formal boundaries between types of work and real sanctions for “raiding” other unions’ current or potential membership (Ulman 1955). The ILWU had no strong claim of expertise or history in the courier industries. If anyone did it was the International Brotherhood of Teamsters (IBT), who in 1997 had just won a high-profile, multi-national strike against UPS (Banks and Russo 1999). No one at the SFBMA ever seriously considered the Teamsters, however, and several of its officers even declined to meet with the IBT when the latter made overtures in late 1997.¹

To ask why the couriers chose the ILWU therefore is to ask why industrial jurisdiction had so little influence on the couriers’ decision. Yet San Francisco’s bicycle messengers are not an isolated case: for nearly a quarter-century, American labor organizing has increasingly happened across jurisdictional boundaries. Surveys of contemporary labor organizing often acknowledge this trend and discuss the apparent rise of the “conglomerate union” as distinct from older craft or industrial unions (Lichtenstein 2002; Milkman and Voss 2004). The second puzzle, then, is how Amer-

¹Telephone conversation with organizers, 15 May 2008.

ican unions have established conglomerate forms rather than remaining specialized by industry. The issue at hand is not why organizations would *try* to specialize or diversify; the reasons for this have been well established in organizational research (Lawrence and Lorsch 1967; Hannan and Freeman 1977; Freeman and Hannan 1983; McPherson 1983; Carroll and Swaminathan 2000). The issue rather is why those who have resources on which the organizations rely would *ratify* such changes. Why would potential members, who long voted for unions that were specialized by industry, instead vote for unions that are diversified?

This is a practical question for scholars of labor and labor organizing, for understanding why workers pick the unions they do may shed light on why workers do or do not choose to unionize at all (Bronfenbrenner 1998). Changes in workers' voting behavior in favor of diverse unions are also particularly salient for organizational and economic sociologists, given the recent literature on how audience behaviors influence candidate identities (Zuckerman 1999; Pólos et al. 2002; Zuckerman and Rao 2004; Hannan et al. 2007). The ecological strain of this literature in particular implies that a diverse union should face steep hurdles to legitimacy: “[G]eneralists—those with membership spread over categories—are likely to be judged as having inferior offerings in markets in which specialists can be found in all categories” (Hannan et al. 2007, 109). Thus a union that tries to organize workers in new industries should be less likely to succeed than in its own industry; and if it does succeed, such diversification should make it less appealing to future voters. Yet as shall be demonstrated below, the penalties that unions faced for organizing outside their organizational jurisdictions began to decline in the 1980s, and the penalty that any single union faced for organizing outside of jurisdiction shrank as that union became more diversified. Far from being punished, the “Renaissance Men” (Zuckerman et al. 2003) of the labor movement have become more successful than unions that chose to remain specialized.

Theories about audience-candidate interactions have lacked an explanation for why and how an audience that rewarded specialists would change to reward generalists. Zuckerman and Rao (2004) proposed a mechanism by which this change could happen: if categories (like union jurisdictions) are endogenous to some widely held *lay theory of value* that audience members apply when evaluating organizational candidates, then any *change* in that theory of value will likely also change the dimensions along which audience members sort candidates.² I argue that changes to such a lay theory of value, defined here as a *hypothesized connection between an audience's ends and the means that will help them secure those ends*, can explain why potential union members began voting for diversified unions beginning in the early 1980s.

Zuckerman and Rao (2004) postulate has never been empirically developed. I develop a theory and approach for testing for a change in an audience's theory of value. I focus on the social structure of this candidate-audience interface, in particular the union organizers who are intermediaries between voters and unions. These organizers introduce new voters to the unions' legitimated jurisdictional categories. By channeling such information and norms (Podolny 2001; White 2002), organizers help reinforce the "circular dynamic [that] governs much of social life" (Zuckerman 1999, p. 1398). I show that union efforts to *restructure* the organizer role after 1982 track closely with voters' becoming more willing to vote for diversified unions. Many unions realized that their older, decentralized style of organizing using industry veterans became ineffective in the face of increased employer opposition, and they created centralized organizing departments that employed professional, often college-educated analysts and staff members who had little experience in potential members' industries. Such organizers could not "sell" their union to new members by emphasizing their experience in the industry as past organizers had done (Ulman 1955; Dunlop 1958; Craft 1991) but they *could* emphasize their experience breaking into *new* in-

²If the new dimensions used are orthogonal to the old ones, then newly successful candidates will appear diversified along the old criteria.

dustries. This new justification resonated with voters because the latter group now found winning recognition from employers more difficult and therefore valued candidate unions first on their ability to win employer recognition and only secondarily on their contract-bargaining ability. This changed theory of value privileged diversified unions. The key theoretical insight stemming from this finding is that the sort of “market intermediaries” that previous studies have relied on largely to *identify* classification (Zuckerman 1999; Hsu 2006) can have their own *causal* role in reinforcing *or transforming* social systems of categorization.

Documenting a change in valuation requires extended longitudinal data to demonstrate how a theory of value worked in the past and how it changed. I address this by analyzing data covering all organizing drives that filed representation-election petitions with the NLRB between 1961 and 1999, capturing decades on either side of the theorized change. Such a change to a lay theory of value cannot be inferred from changes in specialization alone because such changes could reflect audiences’ applying the same theory of value to changed economic fundamentals. I therefore combine the quantitative analysis with interviews with union staff and organizers who were active throughout the period to identify changes in their *justifications* for applying categories (Abbott 1988; Ridgeway and Correll 2006; Zuckerman 2008; Kahl 2008), which help directly identify changes in valuation.³ I demonstrate that the decreasing penalties associated with industrial diversification after the early 1980s cannot be explained by the simple collapse of jurisdiction, as a theory that focuses only on the “supply” of unionization would predict. While the penalties associated with organizing outside traditional jurisdictions decreased after the early 1980s, only unions

³28 semi-structured interviews were conducted with union organizers and staff members. Of these, 10 had been active prior to 1980, 11 had been active since the early 1980s and seven were active across both periods. All of the older organizers were male, reflecting unionization patterns in that period; two of the intermediate and four of the newer organizers were female. Interviews lasted an average of 45 minutes and were usually recorded. The quotations presented here are not used to prove hypotheses but to suggest the mechanisms by which the theory operates and to give meaning to the quantitative findings (Jick 1979).

that *also* restructured their organizing *benefited* from diversification, implying that the structure of “demand” for unions also mattered. Furthermore, the adoption of such reforms involved a feedback loop: unions that centralized and professionalized their organizing experienced greater benefits from doing so as more unions adopted the reforms. Such unions, diversifying across industries, should not be thought of as mere “space invaders,” as they would both in the old jurisdictional system and in a competitive free-for-all, but rather as specialists of a new kind, one in which audiences, still looking for ways to distinguish and use organizations, see value.

3.2 The rise and fall of industrial jurisdiction

The American labor movement since 1960 has four features that recommend it as a site for investigating a shift in audience members’ theory of value. First, the unions operated within a strong categorical system based on the AFL-CIO’s principle of exclusive jurisdiction. Second, organizing activity, mergers and voter behavior largely conformed to those jurisdictions in the 1960s and 1970s. In that period the labor movement resembled other contexts in which researchers have found a relationship between conforming to a category and performance, such as venture capital (Wu and Dokko 2007) and feature films (Zuckerman et al. 2003). Third, beginning in the 1980s, that conformity broke down: unions increasingly tried to enroll workers across more industries, mergers united unions in less-and-less related industries and voters became more likely to vote for unions that branched out. Fourth, despite environmental changes that would encourage *all* unions to diversify their membership, unions’ success at doing so has been quite uneven. Industrial-relations research into changes in the unions’ jurisdictions (Chaison and Dhavale 1990a,b; Dunlop 1988) describes the rise of “conglomerate unions” but offers little theory to explain the phenomenon or to predict why some unions would be more inclined to take on conglomerate forms

than others. This section describes briefly the AFL-CIO's jurisdiction system and the changes that system underwent during labor's "time of troubles" (Lichtenstein 2002, p. 212) in the late 1970s and early 1980s.

Organizing since the 1950s has officially taken place under the AFL-CIO's principle of exclusive jurisdiction. The logic of unionization is to limit competition among employees regarding the terms of employment (Commons 1909). Setting up an exclusive jurisdiction for each union, which would formally eliminate competition from other unions, was the obvious way to promote this goal.⁴ The use of the term "raids" to describe organizing attempts within another union's jurisdiction reflects the normative value placed on this division of labor. Thus for example the original constitution of the American Federation of Labor, adopted in 1882, reads that

No charter shall be granted by the [AFL] to any National, International, Trade, or Federal Labor Union without a positive and clear definition of the trade jurisdiction claimed by the applicant, and *the charter shall not be granted if the jurisdiction claimed is a trespass on the jurisdiction of existing affiliated unions*, without the written consent of such unions. . . (Article IX, II; emphasis added)

Mutual respect for jurisdictions could in principle be secured through a network of bilateral agreements, but in practice unions have instead affiliated to confederations that have formal no-raiding agreements (Ulman 1955). Most of the unions studied here are or have been members of the AFL-CIO, which was formed in 1955 in large part to end jurisdictional battles. Union organizing largely conformed to those the AFL-CIO categories; jurisdiction shaped the day-to-day interaction of current and potential union members in ways that reproduced the boundaries between unions

⁴There has been some dissent, particularly within academia, over whether monolithic representation is indeed the optimal structure (Freeman and Medoff 1984; Stepan-Norris and Zeitlin 2003). Such dissenters frequently note that the periods of greatest trade union growth have also been periods of trade union competition, as between the AFL and the CIO in the 1930s. This criticism may be correct, yet the norm of jurisdiction has been widespread. Even in when unions competed for members, almost never have any of the competitors expressed overlapping jurisdiction as a goal. Rather, multiple unions' operating in each industry was the *de facto* state of affairs while each union tried to establish unity under its control (Zeiger 1995)

and industries.

This pattern of organizing began to break down after about 1980. The exact start date of the trade-union collapse has long been debated (Kochan et al. 1986a; Goldfield 1987; Farber and Western 2000; Lichtenstein 2002; Fantasia and Voss 2004) because so many potentially critical events occurred between 1977 and 1984. Because this study focuses on changes to organizing, the near-total collapse in union organizing during the deep 1982 recession, shown in figure 3-1, is a useful break point. Having averaged about 7,000 drives per year for nearly two decades, organizing fell by 90 percent in 1982. Activity rebounded the following year but only to about half the old level. Part of this decline represented increased selection by union organizers—as the win rate shows, the share of *successful* drives rose in this period—but, since unions had long struggled just to organize enough new members to offset attrition, the lower post-1982 organizing rates began a sharp and sustained decline in union density.

Union organizing also grew more diverse across industries after 1982. This paper measures the diversification of unions' organizing across industries using a Hirschmann-Herfindahl index (HHI) where shares are the portions of a union's organizing activity in each three-digit SIC industry. The index is weighted to account for the relatedness of different three-digit industries.⁵ On this measure, a value of one indicates complete concentration of a union's organizing activity in a single three-digit industry. Organizing in additional industries or spreading one's organizing more evenly across industries will lower the score. Figure 3-2 plots this measure of diversity over time for the AFL-CIO as a whole and for selected unions. Before 1982 industrial concentration among AFL-CIO unions' organizing was relatively high; the ILWU, which was outside the federation until 1988, is plotted for contrast. Concentration within the federation was also comparable for different unions.⁶ After 1982 the average diversity of orga-

⁵As for example industry 344 (Fabricated Structural Metal Products) is more related to industry 346 (Metal Forgings and Stampings) than it is to industry 783 (Motion Picture Theaters). Calculation of these weights and the index is described in the data and variables section below.

⁶The AFL-CIO includes craft unions that organize across industries. Thus the AFL-CIO average



Figure 3-1: All and successful union organizing drives, by year, 1961–1999

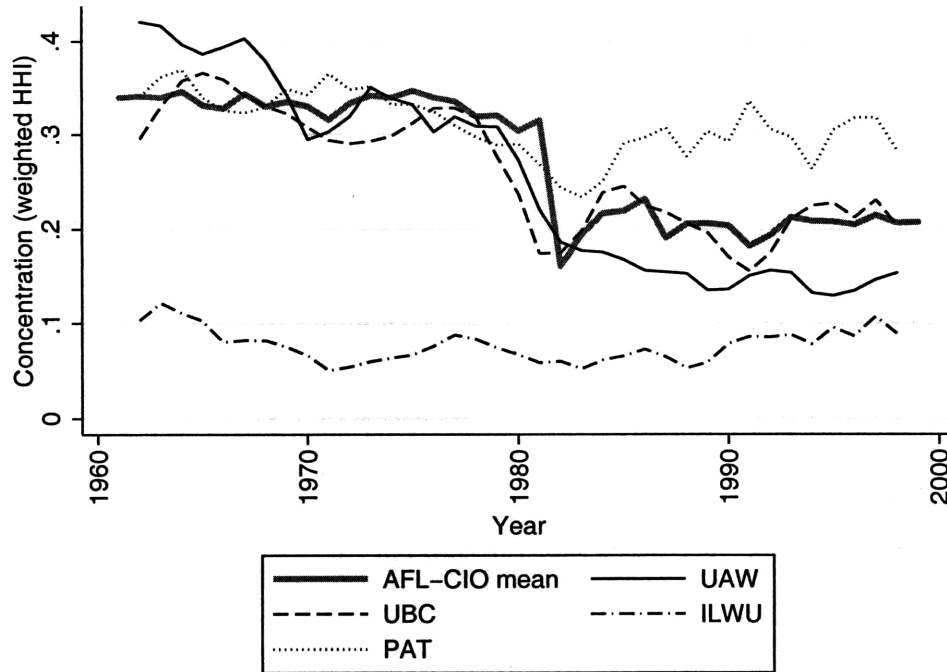


Figure 3-2: Industrial concentration of organizing attempts for the AFL-CIO and selected unions, 1961–1999. (Union records are three-year moving averages.)

nizing by AFL-CIO unions increased; no comparable change occurred in unaffiliated organizing. Furthermore the AFL-CIO unions' activities resemble each other less after 1982. The Carpenters (UBC) diversified but no more than the federation average, the Painters (PAT) stayed at their previous levels and the Auto Workers (UAW) diversified such that, by century's end, they more resembled the once-unaffiliated ILWU than they did the federation.

In the past, such diversification of organizing would have led to lower win rates for the diversifying union. Figure 3-3 however reports the estimated effect of increasing a union's organizing diversity on the probability that the union would win a representation election. The penalty that was present in the 1960s and 1970s disappears in the 1980s and, increasingly, becomes a benefit. It is this shift *away* from industrially *understates* the industrial unions' concentration.

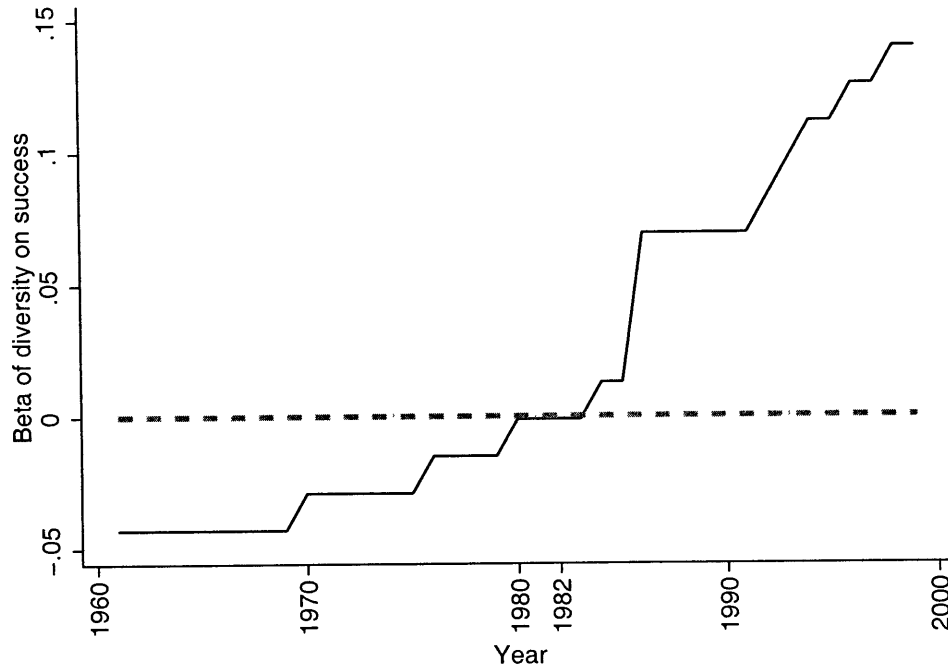


Figure 3-3: Estimated effect of increasing industrial diversity of union organizing drives on organizing success, 1961–1999. For each year, the calculated value is the percentage difference in the probability of winning a drive between a union whose drive or organizing equals 1 and a union whose diversity equals zero.

trial specialization, both by the unions who launched organizing drives and by the employees who ratified those efforts, that this study seeks to understand.

3.3 Explaining generalists

Unions can *attempt* to diversify whenever they want and they had motivation to do so after 1982. Diverse organizing will only produce a diverse union, though, if the workers vote for it. Why might audiences shift their preferences from specialists to generalists? Three strands of recent sociological theory investigate such interactions, focusing respectively on cognitive categorization (Hannan et al. 2007), power (Fligstein 2001) and the social process of valuation (Zuckerman 2004; Zuckerman and Rao

2004). I do not recapitulate all three strands here (Lounsbury and Rao (2004) and Zuckerman (2008) review much of the supporting research). Instead I note that while in principle these theories explain both specialization and diversification, their predictions and empirics have been devoted to the constraining effects of categories and the reinforcement of specialists (but see Zuckerman et al. (2003) on Renaissance Men and Peterson (1997) on “breaking out” in country music). I therefore sketch what each theory implies would be necessary for the spread of generalists. Cognitive theories do not problematize shifts in audience behavior. Theories of power offer a mechanism for forming preferences but not for changing them. Social valuation suggests a way for preferences to change but lacks mechanisms and empirical support. I develop the pieces of the latter that have been lacking.

3.3.1 Cognitive categorization

Early organizational niche theory (Freeman and Hannan 1983) stipulated many of the environmental conditions that would encourage organizations to specialize or diversify. That work emphasized producer actions, considering for example the impact of producer density (Hannan and Freeman 1987; Carroll and Swaminathan 1991) or age (Carroll and Hannan 2000; Carroll and Huo 1988) on vital rates within the producer population. These studies only vaguely described the impact of consumers’ tastes and preferences, subsuming individual effects within environmental variables such as fine- or coarse-grained demand. This made analyzing the switch between specialist and generalist organizations impossible except in trivial instances:

We posited [in Pólos et al. (2002)] that...code violations [by organizations operating across categories rather than specializing] generate devaluation by relevant actors, and that identities build on such codes. Yet we did not identify the agents who do the codification. This kind of “passive-voice” construction, which characterizes much institutional sociology, makes it very difficult to explain change in institutional arrangements, including social codes, except by reference to exogenous shocks.

(Hannan et al. 2007, p. 31)

Recent ecological theory has therefore incorporated the actions of audiences directly. I refer to this work as “cognitive categorization” because it begins with the assumption that actors look for distinctions and similarities to make sense of a complex reality: “Members of audiences observe producers and products, notice similarities [and] try to make sense of them by clustering similar producers/products” (Hannan et al. 2007, p. 33). Such clustering is not arbitrary; audience members have an interest and some sort of “relevance criterion” that is useful “for sorting potential members of the domain given by their interest” (Ibid., 38). Because audience members prefer clear satisfaction of such criteria,

“An important issue arises when a producer possesses more than one high-degree category membership. . . . psychological research reveals a strong tendency for persons to ignore all but the strongest membership when pressed to make inferences. . . about feature values (Murphy 2002, 257–264; Verde, Murphy and Ross 2005)” (Ibid., 107)

From these assumptions it follows that “Membership in multiple (nonnested) categories likely confuses the audience and makes a producer appear to fit poorly to any of the schemata that an agent applies to the categories” (Ibid., 108) and that generalists will suffer relative to specialists. Audience members’ preferences for clear identities will aggregate to encouragement for organizational specialization along clear lines. In the case at hand, potential union members value the distinctness of a union that represents workers solely in their industry and are confused by a union that has membership in multiple unrelated industries. Members then vote for specialist unions and reinforce the existing industrial boundaries.

Why though would voters ever prefer diversified unions to specialized ones? The puzzle is *not* the existence of diversified unions amid a population of specialists. Ecological theories have always assumed variation within organizational populations as in biological ones (Hannan and Freeman 1977). The question rather is how specialists

could *become* diversified given the audience's theorized inclination for clear identities. By focusing on that inclination, recent ecological theory seems to contradict older ecological theory: unions might want to diversify, but workers seem to have no reason to go along with the change. This contradiction is particularly troubling *because* the theory's assumptions are quite reasonable.

The most straightforward way to resolve this conflict is to focus on changes to the audience's *relevance criterion*. Cognitive categorization does not problematize why particular audiences find particular criteria relevant for sorting organizational candidates; instead it takes such criteria as postulated and elaborates the mechanisms through which audiences' applying criteria could produce organizational populations specialized along those criteria. For understanding changes in category systems, though, it is at least as important to understand why audience members choose to categorize in the ways they do. Why for example would potential union members value unions that were specialized by industry, rather than by some other dimension?

3.3.2 Categories as artifacts of power

The null, that members do *not* value such specialization *per se*, is worth considering. People might never internalize a category system and yet be constrained by it. Bicycle messengers in the 1970s for example might have wanted to join a union other than the IBT but been unable to, either because the AFL-CIO prevented other unions from launching organizing drives among couriers or because the couriers realized that affiliating with a maverick would bring more costs than benefits. As the federation's strength declined after 1980 it became less able to punish member unions' violations of one another's territories. The breakdown of a well-ordered jurisdiction scheme could be regarded as evidence that the scheme did not "really" reflect audience members' perceptions but merely constrained their actions. Such a purely political explanation of jurisdiction's collapse requires no particular behaviors from potential members.

Changes to the unions and their federation alone could explain the diversification observed.

Power and political compromise certainly played a role in the construction of the AFL-CIO's jurisdictions. The AFL and CIO unions that merged in 1955 relied on different claims to jurisdiction, one based on the type of work performed and the other on the industry in which the work was done. Thus "craft" unions organized among tradesmen across industries while "industrial" unions organized across trades in single industries. These claims were internally coherent but incommensurate (Espeland and Stevens 1998) in that they offered no guidance from first principles for choosing between them. The boundaries recognized at the merger left many potential jurisdictional overlaps in place; consider the multiple unions organizing in the electrical industry (Schatz 1988). The unions were also not hesitant to call on the federation to sanction member unions that violated jurisdiction (Herding 1972). Some degree of enforcement was necessary to preserve the system.

The federation's power also declined after 1982. Yet politics alone cannot explain subsequent developments. Incommensurate boundaries are neither unique to trade unions nor useless to audiences. Virtually all categorization systems rely on an *a priori* choice about the relevant dimensions upon which to classify objects, as for example between *terroir* and grape varietal in French and Californian wines (Douglas 1986). Any such simplification will leave some candidates fitting neatly into *no* category, and yet audience members can still find the simplification useful when considering *most* candidates (Zuckerman 2003). Furthermore, if industrial jurisdiction were solely an artifact of power within the AFL-CIO, then any decline in that power can only explain why diversifying unions would face weaker penalties. It cannot explain why some unions would *benefit* from diversifying.

Theories of power do however offer an explanation for why audiences might develop particular relevance criterion—the unposed question in the ecological expla-

nation. Because “Success itself gives... people the authority to define what rational behavior is” and “Economic power also goes hand in hand with the political power to determine public policies that shape how people see their interests and how they can behave” (Dobbin 2004, p. 6), categories could be best understood as artifacts of past power struggles that serve the interests of the winners, not necessarily the interests of those applying the categories. Union voters might therefore value clear industrial jurisdictions not because they are efficient but because people prefer to ascribe functions to institutions that were created partly by force. Such a theory, based on power, is potentially very useful for explaining voters’ reluctance to vote for unions that organized beyond their jurisdictions in the decades before 1980. In so doing, it suggests one way that a relevance criterion could emerge among an audience and thus meshes conceptually with the cognitive processes of categorization described above.

Where such a theory is less helpful is in explaining why a relevance criterion would *change*. If actors rationalize the exercise of power as efficient, then the exercise of power need not be constant (Weber 1968). By the same logic, though, diminution in the AFL-CIO’s exercise of power should not proportionately reduce the authority of the union’s jurisdictions. Dobbin and Sutton (1998, p. 443), discussing the spread of diversity offices within firms, noted that “employers continued to adopt these offices even after Reagan curtailed enforcement of the laws that had popularized them.” Why, in the same time period, did union voters *not* continue to respect jurisdiction, even as unions and the AFL-CIO’s power to enforce them shrank?

3.3.3 Categories as tools for valuation

Explanations that draw on cognitive categorization or power both therefore want for a theory of why audience members shift the criteria by which they classify organizations. I build on Zuckerman (2004, p. 410) insight that “classification is the necessary

first step in the valuation process” to argue that audiences use categories to map candidates onto a reduced set of features that in some way provide the means for audiences to achieve their ends. Making candidates commensurate (Espeland and Stevens 1998) in this way then enables audiences to rank them on their ability to secure ends, whether those ends are making money buying securities (Zuckerman 1999), saving for retirement in a mutual fund (Zuckerman and Rao 2004) upgrading office equipment (Kennedy 2008) or going out for a classy dinner (Rao et al. 2005). The categorization scheme used is not arbitrary; audience members think it helps them. Yet the means do not always meet the ends: if classification is a first step in valuation, then audiences should sometimes change their valuation schemes and thus their categories when they observe a disconnect between the two things—when their theory of value appears to be flawed (Zuckerman and Rao 2004, p. 173). It is such a recognition by potential union members—that unions with deep experience in their industry had become increasingly unable to win recognition and thus could not deploy their formidable contract-bargaining abilities—that is proposed to drive the changes observed in this study.

If classification is part of the process of valuation, then the fact that categories are “typically crude cuts through a highly nuanced and dimensionalized array of phenomena” (Zuckerman 2003, p. 2) takes on particular significance for explaining the appearance of generalists. For if classification schemes apply lay theories of value, then presumably the reduced feature set on which the classification scheme focuses was chosen for its ability to distinguish candidates along that theory of value. A new theory of value may imply a new criterion and a new ranking. A shift from specialized unions to diversified ones therefore need not happen because of any change in voters’ preferences toward generalism. Rather, evidence that diversified unions outperform specialized ones may be evidence that voters have begun to value something else about unions, something on which the seemingly diversified union is in fact specialized.

If theories of cognitive categorization suggest the *need* for a relevance criterion and if theories of power suggest one way that such a criterion might *emerge*, then theories of social valuation suggest a way that relevance criteria might *change*. Because they can be tested against performance and found wanting, lay theories of value offer rationales for changing classification systems and thus offer an escape from the reification of categories that theories of power might predict. At the same time, those theories imply specific changes in the focus of specialization and thus still provide a mechanism by which relevance criteria could change. The approach occupies a useful theoretical middle ground but it has serious empirical shortcomings: while Zuckerman and Rao (2004, p. 209) showed evidence that classificatory schemes and codes “may be considerably more fluid than is commonly assumed,” they acknowledged that the onus lay on future research to document and explain how such a change in audiences’ theory of value might take place: “rather than simply assuming them as hard constraints, our results call for research into the process by which old theories of valuation are overturned and new ones emerge and, in what circumstances, such dynamics crystallize into relatively stable interpretive schemes that constrain strategy.”

3.4 Identifying change to a theory of value

This study uses the breakdown of industrial jurisdiction and the shift in performance of specialized and diversified unions to document how potential members’ theory of value changed: how they identified a new theory by which joining trade unions served their ends and how they applied that theory to subsequent organizing drives. The approach used here has three elements. First, it stipulates that, if category schemes apply theories of value, then actors should cite that theory of value to justify applying the scheme (Kahl 2008; Zuckerman 2008). This implies that changes to their theory

will change their justifications. Second, because category schemes are reinforced by stable role structures that channel information and norms (Hsu 2006; Podolny 2001; Zuckerman 1999), changes to a theory of value should be associated with changes to those roles.⁷ Third, these new justifications and roles should produce structural changes in the organizations involved. The spread of such changes should therefore predict different effects of classification. Below I describe each element's presence in union organizing during labor's period of crisis. I then draw several hypotheses that can be tested on the historical data.

3.4.1 Justification of industrial jurisdiction

The AFL-CIO's industrial jurisdiction scheme had explicit justifications. The dispute between craft and industrial jurisdictions (See Dunlop (1958) for an overview) reflected a dispute over the role of industrial specialization in helping workers get the best possible contracts. Yet while craft and industrial unionism assumed different sources of power, their means for securing it—high density within their chosen jurisdictions—were the same. For industrial unions in particular, high density within industries was a necessary prerequisite for building countervailing power against employers in negotiations.

Such a scheme for carving up the economy always produced some awkward cases that straddled accepted boundaries. These overlaps are useful here because they forced unions to justify why a line of work or group of workers should be in their jurisdiction and thus surfaced why they valued a given categorization scheme. Technological change for example often gave unions a chance to stake their claims anew. In the early 1960s, members of the International Association of Machinists (IAM), the

⁷A mere association is posited rather than causation because, as is explained in the case, the process is more complicated. Unions began to change their organizing structures because they realized that their drives were failing too often. Voters identified an advantage in such reorganized unions; their voting for such unions encouraged other unions to make similar changes. The new order emerged from such interactions rather than solely from one side's strategic behavior.

IUE and the UAW⁸ argued before a federal Walsh-Healy panel⁹ the proper classification for missile production. Each union mentioned details of the production process that gave it claim on the workers involved.¹⁰ None used these claims as the sole basis for their jurisdiction, though. Instead they discussed the relative power that would aggregate to employers and employees in the industry from each possible determination. Thus the UAW acknowledged the machined and electrical aspects of missiles but argued that its established base among the defense companies' assembly workers would allow it easily to enfold missile-production workers into existing contracts with favorable terms.¹¹ The government echoed the UAW's argument when it ruled for aircraft builders as the comparison group for setting wages in the industry (Staff 1959). Disputes like this one did not challenge the jurisdiction system but instead fitted anomalous cases into the system's categories. Such "tests" (Boltanski and Chiappello 2006), far from undermining the system, instead lent authority to jurisdictions by taking their existence for granted and involving external actors like the state in justifying their boundaries.

Union members also considered the contract-bargaining ability of different unions, which was related to their industrial density, in making their decisions. Routine social contact with union members, often in one's own industry, made the choice of which union to affiliate with seem obvious, and yet social ties in and of themselves were insufficient for picking a union. Contract bargaining still mattered:

Interviewer: What if you worked in an auto-parts plant, and your uncle

⁸Whose full name includes "Aerospace Workers."

⁹The Walsh-Healy Public Contracts Act of 1936 stipulated standards for pay and hours of workers engaged on federal-government contracts. The Act states that workers should be paid at least the "prevailing minimum wage" in an industry or locality. Because in many industries production for the government and for civilian use happened side-by-side, the government's wage determinations also set a *de facto* floor under wages for civilian work. The Department of Labor convened panels to investigate and rule on wages in several industries.

¹⁰"Walsh-Healey Hearings, Electronic Equipment industry—Statement of IAM and UAW in support of its proposed definition of Aircraft-Guided Missile Industry," 1959; UAW Research Department Collection, maintained by Wayne State University; Part 1 Box 64 Folder 6.

¹¹Testimony by Leonard Woodcock, UAW, to the Walsh-Healey Hearings on the Aircraft-Guided Missile Industry, 12 January 1959; *op. cit.*

worked in a furniture plant? Would you join the Furniture Workers?

Paul [former industrial unionist]:¹² Sometimes. I think some unions used to get members that way. *But it wasn't the norm.* I think, back then, it was more likely he'd tell you to get in touch with the Auto Workers, or maybe the Machinists, because *they'd be the ones that could get you a good contract.* [Emphasis added]

This quotation illustrates both the general applicability of the older jurisdiction system (both employees and their contacts understood the connection between a union's specialization and its ability to secure value in the form of a contract) and the devil in the details of that application (for many jobs, such as machining parts in auto-supplier factories, there could be more than one option). With unionization relatively stable, "The burden of proof," Joseph noted, "was on someone from the outside," outside one's industry or line of work. That rationale, that industrial density meant leverage in bargaining with employers, was and remains a powerful argument that any union can make during an organizing drive. That unions who broke conformity with industrial jurisdiction suffered penalties in terms of lower win rates will in turn be tested below.

3.4.2 Role reinforcement of jurisdiction

Decentralized organizing within the national unions also hobbled ambitious efforts outside the unions' traditional boundaries. The union organizer is the most important initial contact between potential members and unions. Throughout the period organizers helped convey unions' reputations, abilities and track records to potential voters. Thus how they channeled norms and information (Adut 2005; Centola et al. 2005) and how that role might have changed is crucial for understanding evolution of the system.

¹²Exclusive jurisdiction makes protecting respondent anonymity difficult. I have avoided naming unions wherever possible and tried to substitute comparable unions (other building trades, other service unions) whenever feasible in quotations. Respondents' names are also changed.

In the past, most organizing was done by business agents in the locals. The business agent is a (frequently) elected staff member that is paid through the local's dues. The agent's duties can include hiring staff, keeping records, collecting dues, handling grievances and (virtually always) participating in contract negotiations with the employer. The business agent was usually the first point of contact between potential members and an interested union. His job was to convince employees that affiliating with his union was in their best interest. Karl, a union staff member, described the pattern:

The classic term is "hot shops." Hot shops were places that weren't unionized, maybe because they were small, maybe the union had lost a drive there in the past, or they were new. The locals would know about many of these shops, and they would keep an eye out for when the employees were pissed off or when the union had bargained a good deal [elsewhere], and they'd swing through then.

Such organizing was tactical rather than strategic. Business agents usually came from the ranks of industry. Karl again:

When I began [in the late 1970s], the typical organizer was still someone from the industry who had taken place in an organizing drive. . . who had sometimes won, but often who had *lost* and then been "let go" for his union activity. The local would keep that person around, planning to try again at his shop in a year's time. . . they might have a drive going on across town in the meantime, and they'd have him go work on that. You do a few of those, and soon you're an organizer.

Mike, another retired business agent, described a similar trajectory among his craft union:

I started organizing when business was slack. I had seniority and I had a loud mouth. The [regional] office knew that I'd worked all over the place, so when they went after a company they liked to send somebody like me, who might know people.

Such respondent descriptions of older union organizing as decentralized, local and operating through social and industry ties accord with academic work contrasting

older and newer organizing tactics (Bronfenbrenner 1997; Bronfenbrenner and Hickey 2004; Rooks 2004).¹³ Both the tactics of the union and the skills of the business-agent organizer best supported enrolling new members in the union's core jurisdiction. Here it had density and thus leverage, and here the business agent's own experience in the industry was a *bona fide*. Thus the key intermediary between the candidate unions and the audience of potential members, the organizer, had strong incentives to work within jurisdiction and thus to reinforce the existing boundaries.

Union members described the same system. As one building-trades organizer put it,

I have not met the electrician who would not join the Carpenters because [they] had 'Carpenters' in the name. . . . [I]t was more that, in the old days, you wouldn't *see* a carpenter. If you were an electrician, and you were thinking about joining. . . there was a union for you to join: the Electrical Workers. [Interviewer: Didn't the Electrical Workers organize in places like GE factories, though?] Sure they did, but that was the exception that proved the rule. . . most of the time, when you went looking for a union, you already knew which one you were looking for.

Several former unionists in fact were confused by the question of how they "picked" unions. Joseph, an industrial organizer active from the mid- to late-1960s, averred that "We didn't really *pick* that often":

You wanted a union? Fine, you probably had an uncle in the trade, or a brother, and he'd put you in contact with somebody. [Interviewer: Was it usually family?] No, not always, but you knew somebody you trusted. And that was your union.

This organizing pattern was not universal. The Steelworkers for example tended

¹³Most of the existing scholarship that compares older and newer organizing techniques is normatively focused on revitalizing the labor movement and critical of the "bureaucratic personality" (Fantasia and Voss 2004, p. 81) of older union practices. Most such critiques focus on the internally undemocratic practices of the "old labor movement" and stress the unions' failure to adapt to the increasingly hostile environment they faced in the 1980s. This study takes no strong normative position on these older tactics. The collapse of membership in the 1980s seems sufficient indictment of past practice. The point in contrasting older with newer organizing tactics is simply to note how these different practices had different implications for how unions and workers mapped unions to industries and thus affected union voters' lay theory of value.

to do much of their organizing work through their national headquarters in Pittsburgh (Stepan-Norris and Zeitlin 2003). Organizing in new geographic areas, as for example when the electrical unions followed firms like GE into the south (Schatz 1983), often required separate, paid organizers who had few long-term connections to the community and who had to win over workers despite little personal or social history in the industry. Yet such centralized and long-range efforts were the exception in the two decades after 1960. A union that “broke” jurisdiction had to deal both with a fellow union that would protest the raiding of its turf and the distrust of potential members, to whom it would have to make a case for why it rather than the dominant union in their industry would be able to win the best agreement with employers.

3.4.3 Changes to justification, roles and structure

If industrial density and decentralized organizing are the primary justification and role structure that reinforced industrial jurisdiction, then any shift in voting to favor diversified unions should be associated with changes to them. Such changes have indeed occurred. New-member organizing particularly since 1980 has happened in the teeth of declining membership, from nearly one third of private-sector workers in 1960 to 9 percent in 2000 (Hirsch and Macpherson 2004). The steepest, most sustained decline came during the early 1980s, as reflected in figure 3-1. Peter, a former staff analyst of a large international, described the change:

It used to be that union members were around. If you weren't one, you knew one. You didn't shop for unions, you looked one up. That wasn't true everywhere—in the south, of course, there weren't unions. There, unions had to introduce themselves, through the organizers, who weren't locals usually. *It's like everywhere's the south today.*

Today I think it's a lot easier to find out about a lot of unions. You can go online. But the personal connection, through your community, that kind of trust... that's gone. [Emphasis added]

The collapse in industrial density during the recession had more than the first-order effect of undermining the unions' bargaining power with employers. As a second-order effect, it sapped the unions' claims to new recruits that the union could win them good contracts. This could be seen most clearly in the value of the union wage gap, which has steadily declined since the late 1970s (Eren 2007; Freeman 1985; Wunnava 2004). The result was a feedback loop in which falling membership reduced density, which weakened appeals, which further reduced membership. This undermined the primary justification for industrial jurisdictions.

Had the recession's effects been merely economic, the recovery that began in 1983 should have pushed the jurisdictional system back toward its old strength. Yet most industrial relations observers agree that the early-1980s recession marked a break with previous downturns. Most obviously, neither organizing activity nor total membership rebounded during the recovery as they had in the past (Kochan et al. 1986a). Explanations for this continued stagnation vary, but most scholars agree that increased employer opposition to unionization, seen for example in the explosion of Unfair Labor Practice (ULP) charges filed against employers during organizing drives (Flanagan 1989), played a major role (Roomkin and Block 1981; Block and Wolkinson 1986; Kleiner 1984; Freeman and Kleiner 1990).

Faced with grim economic news and entrenched employer opposition, unions moved first. Several acknowledged that the decentralized business-agent organizers upon whom many unions had relied could no longer win campaigns. The organizers interviewed agreed that the world of going after "hot shops" had passed. Peter noted the contrast; building on his comment that "It's like everywhere's the south today," he said that "Today's organizing drives resemble the ones the unions tried in the South in the 1940s, like Operation Dixie," the CIO's massive (and massively unsuccessful) campaign to organize southern textile and forestry workers after World War II (Griffith 1988). The role of organizers is quite different in such a campaign: the

unions has multiple targets—an entire firm, an industry within a city—rather than single ones. This change in focus, Karl confirmed, came from changes in employer resistance:

[When] employers largely accepted unionism. . . you could focus on how much the employees wanted to unionize. But today the employers resist so fiercely and the government largely stands aside, so the employee is less important in a way—it doesn't matter how much they want the union, if the employer is dead-set against it, you'll lose. So you have to organize the employers, in a sense. And that means more people, bigger drives.

Thus both who becomes an organizer and what an organizer does has changed. “More people” often means teams of organizers, frequently operating out of the national headquarters and visiting different cities during campaigns. The members of those teams may themselves have little personal experience working in the industry that the union tries to organize. As with so many other jobs in the not-for-profit sector (Markowitz and Tice 2002; Osterman 2002; Huising 2008), over the last generation union organizing has become increasingly professionalized. Karl contrasted the organizer who came out of the workplace, often in the context of a failed organizing drive, mentioned above, with his modern counterpart:

Today there's so much more work picking industries, targeting industries, developing corporate campaigns. . . You need more experience with the employers as a group and the industry, so a lot of people on these teams aren't from one job—they're analysts. You still need people who can win the employees' trust, that's paramount, but they aren't using their personal history to do that as much.

Such interviews document the recognition of changes to the lay theory of value that underlay industrial jurisdiction, but on the *candidate* side of the candidate-audience interface. Why should voters value unions that are diversified across industries? The mechanism for a change in voter behavior should be sketched out. When union organizers have to build trust despite their lack of personal experience in potential members' jobs, as they had to after the early 1980s, deep industry experience cannot

be their main selling point. A history of densely organizing an industry and bargaining good contracts with employers helps, but today's organizers more frequently find themselves organizing workers in industries where no such history exists. In such cases, credibility is better established by a track record of breaking into *new* industries, which requires the opposite approach to organizing from that found in the past. Carlos, a former union staff member working on corporate campaigns, emphasized the role that a successful "track record" plays in winning over unfamiliar workers:

It isn't useful to go over the things you can get them in the negotiations. At least not at first. . . you have to show them that you can get into those negotiations at all. And that means you talk up how you've unionized other groups of employees. [Interviewer: Similar employees, normally?] It helps, but they don't have to be. *When you're selling yourself as an organizer*, it's almost more impressive to say that you've brought in *all kinds of different workers*, because it shows that you can handle a lot of different challenges. [Emphasis added]

Carlos's comment suggests why potential members might be more willing in recent years to vote for unions with diverse organizing activity. Employees still care about the benefits that a union can win them, the hypothesized connection between the means of unionization and the end of a contract—the basis of a lay theory of value—has changed. Because winning an organizing drive has become so much more difficult, members must consider the benefits of membership in a given union, *conditional on becoming unionized* (Ferguson 2008). Unions that are unlikely to win an organizing drive will be devalued regardless of the hypothetical contract they could negotiate. To an employee considering two unions, one that has often organized her industry in the past but that has a poor record in recent drives and one that has less experience in her industry but a better record elsewhere, the latter will today seem more appealing. In other words, raising the salience of the organizing drive itself should reduce the relative importance of a union's industrial jurisdiction for potential members.

3.5 Analyzing changes to a theory of value

To gather evidence of a change in the theory of value employed by the unions' potential members, this study analyzes archival records of union organizing drives that were filed with the National Labor Relations Board (NLRB) between 1961 and 1999. The key hypotheses of this study are based on three variables—diversification, centralization¹⁴ and the number of unions centralized—and their interactions. Industrial jurisdiction implies penalties on unions that organize outside their jurisdiction, so the diversity of each union's organizing drives across industries each year is used to verify this. This approach echoes earlier theorizing on union jurisdictional penalties: "Although such diversification strategies may hedge against uncertainty by reducing the union's dependence on a single exchange relationship. . . diversification requires a union to adapt to unfamiliar environments and workers who differ from traditional members" (Fiorito et al. 1995, p. 619). Not only would workers outside the union's historic jurisdiction need convincing that the union cared about and could represent their interests but the union could also alienate existing members by "diluting the union's community of interest and obscuring its identity, thereby adversely affecting members' solidarity and commitment" (Cornfield 1987, p.190).

Structural reforms to how unions conduct their organizing are theorized to offset such penalties. The centralization of organizing at the level of the national union is tested here as an example of such a reform. As interview respondents repeatedly stressed, unions began creating such departments in the 1980s to overcome what they saw as fierce employer resistance to organizing campaigns. Thus having such a department is hypothesized to make election victory more likely.

The number of unions that have adopted centralized organizing departments is used to operationalize the diffusion of the new lay theory of value. The principle

¹⁴Data were also gathered on unions' adoption of professionalized organizing staff. Models using this measure and the number of unions professionalized yield very similar results to the models using centralization, and are available from the author upon request.

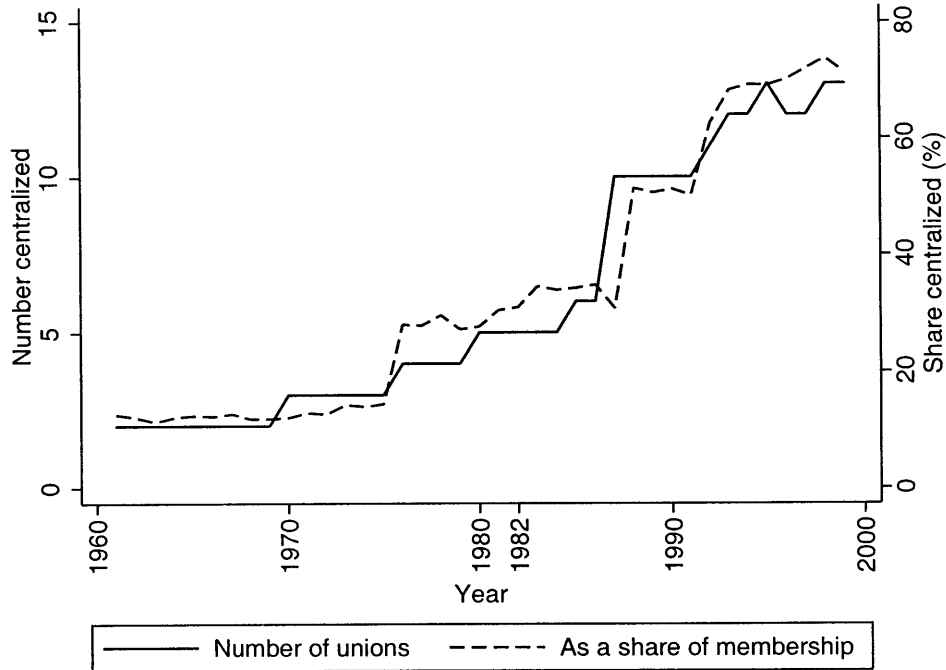


Figure 3-4: Unions with centralized organizing departments: raw number and as a share of AFL-CIO membership, 1961–1999.

behind doing so is that this number tracks the transformation of the union-organizing role and the shift from industry veterans to professionals with less industry experience. As figure 3-4 shows, increases in these adoptions do correspond closely to increases in the share of currently-unionized employees represented by such unions. Additionally, the number of unions with such departments does *not* spike in 1982. The rapid adoption of such departments begins about half a decade later, which corresponds with unions' learning that their old tactics no longer worked and slowly making changes (Craft 1991) to compensate.

The main effect of this variable is hypothesized to be positive because it corresponds to the spread of a new theory of value. Win rates generally rise over time, though, and the number centralized itself varies in time, so few theoretical conclusions can be drawn from a positive result in and of itself. Instead the interactions of these

three variables will be important to test. Interacting diversity with centralization for example can test whether such reforms have their hypothesized effect of reducing the penalties that “space invaders” face. Interacting centralization with the number of unions that have adopted centralization checks whether the benefits of centralized organizing have always existed and were belatedly realized by many unions, or whether such benefits only appeared as more unions made the change. Interacting diversity with the number centralized meanwhile tests whether the penalty associated with violating jurisdiction declined, as it should have if voters abandoned their earlier theory of value.

The theory advanced here suggests however that these two-way interactions, by themselves, will not capture the full story. Diverse organizing through a centralized department for example *should not* make success more likely if it takes place early in the time period, i.e., at a time when few unions have adopted such reforms. Indeed such tactics may be a net hindrance early in the period, and thus the expected sign on the two-way interaction is ambiguous. Similarly, diverse organizing by itself should not produce benefits even if many unions have restructured their organizing; if potential members reward specialization on organizing rather than diversity *per se*, then they will only be more likely to vote for such a union if it has also made such structural changes. A three-way interaction between diversity, centralization and the number of unions that have centralized is therefore included to test for the effect of all three elements’ being present. These hypotheses are summarized in table 3.1.

3.5.1 Data sources

In union organizing drives the mechanism of audience evaluation is a vote for or against a candidate union in a representation election. Under the National Labor Relations Act (NLRA), the basic law covering trade-union formation in the United

Table 3.1: Variables and hypotheses

H	Variable	Sign	Substantive interpretation
<i>Main effects</i>			
1	(D)iversity	–	Violating jurisdiction carries a penalty
2	(C)entralization	+	Centralized organizing wins more
3	(N)umber centralized	+	Win rates rise as more unions centralize
<i>Two-way interactions</i>			
4	D × C	?	Centralization reduces penalties from diversity; <i>Ambiguous depending on # of adopters</i>
5	D × N	?	Penalties from diversity fall as more unions centralize organizing; <i>Depends on whether union has itself centralized</i>
6	C × N	?	Benefits of centralization rise as more unions centralize; <i>Benefits should only accrue when organizing is diversified</i>
<i>Three-way interaction</i>			
7	D × C × N	+	Penalties from diversity fall faster for centralized unions as more unions centralize

Note: The same proposed main and interactive effects are hypothesized for professionalization as for centralization.

States, a union can petition the NLRB to hold a secret-ballot election at a workplace in order to determine the employees' interest in having the union represent it in collective bargaining with their employer over the terms and conditions of employment. The union must present signed cards showing interest by at least 30 percent of the employees in the proposed bargaining unit in holding an election. Conditional on clearing several procedural hurdles, the NLRB schedules and conducts the election on average within two months of the petition's filing. A simple majority of votes cast is required for victory, upon which the NLRB certifies the union as the employees' representative. The employer is then legally obligated to bargain "in good faith" with the union for one year before any further actions can be taken (McGuinness and Norris (1986) have a detailed review of the process). The efficiency and effectiveness of this process has been a subject of heated debate for many years, but despite its flaws the election procedure remains virtually the only way that unions can enroll new members without the active cooperation of the employer, which is unsurprisingly rare. The great benefit of these elections for this study is that the organizing drive is recorded *before* the election takes place. Thus the collected NLRB records of union organizing drives include failed founding attempts. Such failure data is critical for the empirical study of diversification because it makes it possible to distinguish between those organizations that tried and failed to diversify and those that never tried.

The primary data used to test these hypotheses come from the *FAST* database of NLRB election petitions, originally developed by the AFL-CIO's Food and Allied Service Trades Department and now maintained by the Federation's Collective Bargaining Department. In the 1950s the NLRB faced an increasing number of requests from labor unions for statistical data on the number of organizing drives in various industries, the share of drives in which unfair labor practice charges were filed and the like. To deal with the increased workload, in 1961 the NLRB agreed to pass along

records to the FAST Department every month; in return, the FAST agreed to field data requests directed to it by the NLRB. The NLRB shifted to a new database for its own records in fiscal year 2000, which has introduced some difficulties in comparing new records with older ones; hence the data for this study stop at the end of calendar year 1999. The *FAST* data is nearly complete; the cases that do contain missing values, such as industry, appear to do so at random. Certainly the NLRB and other policymakers have treated these data as representative of labor organizing in America for decades (cf. NLRB (2007)).

The *FAST* database holds more than 213,861 records. This study excludes three groups of records for theoretical and empirical reasons. First, most craft unions are excluded. There is little theoretical reason to assume that craft unions would face the same penalties for violating industrial jurisdictions that industrial unions do, because craft unions do not *have* industrial jurisdictions. The craft unions' actual jurisdictions, based around occupations, are not recorded in the *FAST* data, which makes it impossible to calculate any meaningful measures of their organizing diversity. The exception to this are the "compound-craft" unions such as the Carpenters (Ulman 1955) that historically expanded their organizing to cover multiple crafts in a single industry (usually the building trades) and thus by 1960 resemble industrial unions more than craft unions (Hannan and Freeman 1988).¹⁵ Craft unions account for 44,849 records.

Second, unions that are independent from the AFL-CIO for the entire time period are excluded. Such unions are not subject to the federation's no-raiding agreements and there is no theoretical reason to assume that they should be bound by the same jurisdictional principles as member unions.¹⁶ Independent unions account for 69,312

¹⁵Excluding the compound-craft unions does not change the substantive results.

¹⁶Excluding independent unions also removes the International Brotherhood of Teamsters (IBT) from the analysis. The Teamsters were expelled from the AFL-CIO in 1957 for racketeering and remained unaffiliated until late 1995. Throughout the period the Teamsters launched more organizing drives, more diversely, than any union, and they also *lost* more drives than anyone. The Teamster's win rate only began to improve in the late 1980s after a long and difficult change in leadership.

records.

Third, because this analysis considers the impact of industrial diversity of a union's organizing on its success, including unions that have very few drives and thus by definition very little diversity can overstate the effect of diversification. I therefore exclude those unions that averaged fewer than ten organizing drives annually in the study period. Such unions account for only 3,400 records. The resulting dataset holds 86,299 records for 92 industrial and compound-craft unions that were affiliated with the AFL-CIO for all or part of the study period; these records comprise 43 percent of all election petitions filed.

The FAST Department supplemented the NLRB's records, adding for example the establishment's industry in the form of the three-digit SIC code, in which the potential bargaining unit was employed. As discussed below, I use these data to construct measures of industrial diversification for unions' organizing efforts over time. For that measure, I also draw on the *Standard & Poor's Compustat Industry Segment* files. Data on union density come from the *Union Membership and Coverage Database from the CPS* (Hirsch and Macpherson 2004). Data on employment, including unemployment, come from the Bureau of Labor Statistics, including the *Current Employment Statistics* and *Local Area Unemployment Statistics* data series.

3.5.2 Primary variables: Diversification, centralization and professionalization

The diversification of a union's organizing efforts is measured here using a Hirschmann-Herfindahl index (HHI) that has been weighted by the relatedness of its component industries. An unweighted index of diversity would simply be the sum of squared

Because the Teamsters launched so many organizing drives that only began reliably to succeed late in the time period, including them in the analysis would produce results that appear to support my hypotheses despite the obvious alternative explanations for the Teamsters' trajectory. Hence removing the IBT from the analysis is a more conservative test.

shares of organizing drives across all industries. Such an index would however have an important bias, reflecting the SIC's own bias in distinguishing between industries. The SIC makes fine-grained distinctions between different types of production industries but coarse-grained distinctions between different types of service industries. Because most American unions have their roots in manufacturing, an unweighted index based on the SIC will overstate diversification within manufacturing while understating diversification outside of manufacturing and thus understate differences in unions' diversification. One corrective is to adapt the procedure outlined in Teece et al. (1994) to generate a matrix of weights, $\tilde{\mathbf{T}}$, based on how related industries are.¹⁷ If δ is a $k \times 1$ vector containing the shares of a union's organizing drives in each of k industries in a given year, then diversification is calculated as $\delta' \tilde{\mathbf{T}} \delta$. It is this measure that is plotted in figure 3-2. In that figure, though, the scale runs upward from zero indicating increasing concentration. In the model results, I subtract the index from one so that the coefficients have the intuitive interpretation of increasing diversity.

This index resembles the share of a union's membership in the industry of its greatest concentration as operationalized by Maranto and Fiorito (1987). That study was the first to hypothesize that "the extent of membership concentration in one industry is expected to have a differential effect on a union's organizing success, depending on whether the election unit is in its primary jurisdiction" (229). The weighted index extends this reasoning in two ways. First, Maranto and Fiorito were more concerned with how overall diversification would affect the advantage a union had in organizing within its "primary jurisdiction" rather than its likelihood of success *outside* that

¹⁷This procedure builds off the assumption that the frequency of firms' operation in multiple industries is in part a function of how closely related those industries are. That procedure yields a matrix \mathbf{T} where $((t_{mn}))$ is a t-statistic measuring deviation of the observed frequency of firms operating in industries m and n from the expected frequency based on the marginal probabilities of firms' operating in m and n , where the probabilities follow a hypergeometric distribution. To use these t-statistics as weights, I calculate the matrix $\tilde{\mathbf{T}}$, where

$$((\tilde{t}_{mn})) = \begin{cases} \frac{t_{mn}}{1.96} & \text{if } t_{mn} > 1.96 \\ 0 & \text{if } -1.96 \leq t_{mn} \leq 1.96 \\ \frac{-1.96}{t_{mn}} & \text{if } t_{mn} < -1.96 \\ 1 & \text{if } m = n \end{cases}$$

jurisdiction. Second, the arbitrary designation of a “primary” industry makes less sense when for example only 11 percent of a union’s activity takes place within that industry in a given year.¹⁸ A Herfindahl index better reflects genuine diversification by capturing both the weight of any dominant category and the distribution among lesser categories.

As discussed above, the increasing difficulty of forming a union in the United States has led workers to put relatively more emphasis on a union’s ability to run a successful organizing campaign, the skills for which are more generalizable than those required for industry-specific contract negotiations. Accordingly the effects of diversification on organizing success are expected to be curvilinear, reflecting how the benefit of being known as a general organizer can outweigh the cost of organizing in an unfamiliar industry. Therefore when diversity is included as an independent variable its square is also included in the model.

Data on the centralization of organizing was gathered in telephone interviews with staff in the unions’ organizing departments or (where no central organizing structure existed) the equivalent to the operations department in the national union’s headquarters. Respondents were asked, “Does your union have a national-level office in charge of organizing? [If yes] When was it established?” The answers were then used to code a dichotomous variable for centralized organizing. In the same interview respondents were asked, “What type of background do you look for in an entry-level organizer? What skills are important for an organizer to do their job? What background do your senior organizers have?” Unions where respondents noted that new organizers were expected to have college degrees or similar experience, a background doing online or other research, or quantitative skills were coded as having an em-

¹⁸Focusing on a single two-digit SIC industry also ignored that many unions’ core memberships were and always have been spread across two or more two-digit industries—how the UAW for example had its core membership in SICs 34 (Fabricated metal products) and 35 (Industrial machinery and equipment), or how the Retail, Wholesale and Distributive Workers’ members were spread widely across the wholesale- and retail-trade categories between 50 and 59.

phasis on a professional organizing staff. In principle such a staff can exist without a centralized organizing department, but in practice many unions with professional staffs also have such departments. The number of unions that have adopted each practice is then calculated as the sum of all unions that have adopted in that year or prior ones. This assumes that unions tend not to abandon either practice, which the interviews seemed to confirm.

Other research on union organizing strategies (see especially Voss and Sherman (2000) and the contributions to Milkman and Voss (2004)) has stipulated and found positive effects on win rates associated with the centralization and professionalization of organizing campaigns. Those findings jibe with the weak support found in Reed (1989) and Peterson et al. (1992) that union tactics like targeting employers' sources of finance and campaigning at multiple employer establishments were associated with higher win rates. Such work has tended however to assume that jurisdiction no longer matters and focus closely on the tactics of individual campaigns. This study shifts attention from individual organizing drives to understand what implications such structural changes within unions, against a background of declining unionization, would have for the system of jurisdiction in which those unions operate.

3.5.3 Other variables

Because the jurisdictional system described here affects member unions of the AFL-CIO, unions should fare differently when they are not members of the federation. *Disaffiliation* is a binary variable set to one in for unions in the years (if any) when they were outside the federation. The direction of its effect is not hypothesized. While unaffiliated unions are not bound to respect other unions' jurisdictions and thus should not suffer specific penalties for violating jurisdiction, their operating outside of the AFL-CIO has long exposed them to criticism and attack by the unions within the federation. Which effect dominates is an empirical question.

The change to the theory of value described here posits no effects for organizing within a union's core industries. Organizing drives there should on average be more successful than drives elsewhere, though the advantage to core-industry organizing may decline over time. *Core industries* were identified for each union using three steps. First, the industries targeted by each union in the 1960s, the period in the sample data with the most unions and greatest supposed adherence to the jurisdiction scheme, were tabulated and the most common industries flagged. Second, the list of industries for each union was checked against a brief history of the union (Hanson 1988) to look for missing core industries and early outliers. Doing so generated a tentative list of core industries for each unit that existed by 1970. Third, these lists were updated to account for mergers and amalgamations so that the expanded unions would "inherit" all the core industries of their predecessors. Thus for example when the United Food and Commercial Workers first appears in the data set in 1979, it has listed as core industries all those claimed by the United Packinghouse Workers, the Amalgamated Meat Cutter and Butcher Workers and the Retail Clerks International Association, who joined to create the UFCW that year.

The theory developed here assumes that a union suffers penalties when it first enters a new jurisdiction. There are however also system-level implications of jurisdictional invasion that resemble the trade-offs between legitimation and competition seen in population ecology (Hannan and Freeman 1987). Many unions may compete within a given industry at one time. While the presence of rivals reduces the likelihood of success for any one union, the fact that so many have targeted a given industry also suggests that there is something particularly appealing about that industry. Whether the number of unions active in an industry better reflects the vicissitudes of competition or the richness of the rewards is an empirical question worth investigating; no *a priori* assumption about the effects of such union rivalry are made. Here *union rivalry* is operationalized as the number of different unions active in the targeted

industry in the prior three years.

The *size of industry* is recorded using the BLS's Quarterly Census of Employment and Wages and *industrial concentration* using the Department of Commerce's four-firm concentration statistics for various SICs. Both controls emerge from industrial-relations theory: employees in growing industries have less reason to fear for their jobs if they engage in union activity (Bronfenbrenner 1996) while in less-competitive industries employers have larger surpluses to potentially share with the workforce (Dunlop 1958; Galbraith 1968). Larger bargaining-unit size has long been hypothesized to lower the likelihood of organizing success (see for example Flanagan (1989)) due to free-rider problems inherent in forming an organization that will benefit all workers regardless of their individual efforts to create it (Olson 1965), while larger unions are thought to increase success both because a large membership is a palpable demonstration of a union's clout or resources and because size, as a product of past success, is a proxy for unobserved union organizing ability (Hannan and Freeman 1988; Jarley et al. 1997). *Unit size* here is controlled for by including the number of eligible voters in the model. The log of *Union size* for affiliated unions is taken from membership figures reported in the AFL-CIO's biennial conference proceedings, with membership changes in even-numbered years assumed to be linear between reports. Membership figures for non-affiliated unions are taken from those unions' own national conventions, which also tend to be biennial. The legal environment in the form of the presence or absence of right-to-work laws is coded based on the data gathered on the National Right to Work Foundation's web site. While such laws generally make union organizing more difficult, they usually have the greatest effect on convincing organizers to terminate a drive before election rather than to go to a vote and lose. Thus the drives in such states that do go to election are a self-selected sample in which it is reasonable to assume that the organizers had grounds for expecting success (Ferguson 2008). Finally the number of *drives per year* is included to control

for the fact that unions that unions that engage in more organizing activity are likely to appear more diverse as a function of their level of activity.

3.5.4 Results

I estimate probit models in which single union organizing drives are the units of observation. The dependent variable in these models is victory in the union representation election. Because there are many observations for each union and because unobserved heterogeneity among unions' organizing tactics is likely, I also estimate fixed-effects probits that control for the union. In all models the standard errors are clustered by union.

The most important alternative explanation for the reduced penalties to diversity over time is that the jurisdictional system simply collapsed after 1980 and that, absent constraints, voters were just as happy to vote for one union as another. Such an explanation does not explain why what had been a penalty should become a benefit, but a simpler population-level mechanism like a Matthew Effect (Merton 1995) could account for such a trend. This explanation would imply that, once time is controlled for, unions' adoption of centralized organizing departments should be insignificantly related to election success. To test this alternative explanation, I estimate models that include fixed effects for each year and that interact diversity with years. In this model, the number of unions centralized will drop out because it varies solely with time, but the interaction of number centralized with the other variables of interest can still be estimated.

Table 3.2 reports regression results. Model I presents the estimated coefficients for the model controls. Disaffiliation in particular has a negative coefficient, which suggests that the reputational or other penalties for operating outside jurisdiction outweigh any benefits from being "free" of no-raiding agreements. Core industry and union rivalry both have positive coefficients, which suggests first that unions are

indeed more likely to win elections in their core industries and second that multiple unions operating in a given industry is more a sign of “low-hanging fruit” (Lipset et al. 1956) than of desperate competition. The other controls move in the directions that industrial relations and sociological theory predict. It is worth noting that, even with just the controls present, the effect of the number of drives launched per year is essentially a well-estimated zero. There is apparently no direct relationship between the level of organizing activity and victory in individual drives, once many union and industry characteristics are controlled for.

Table 3.2: Probit models of union representation-election victory, 1961–1999, controlling for centralization

Variable	Model						
	I	II	III	IV	V	VI	VII
(D)iversity		-0.083*** (0.024)	-0.082*** (0.026)	-0.086*** (0.028)	-0.080** (0.033)	-0.076** (0.032)	-0.071** (0.033)
Diversity ²		0.053*** (0.012)	0.054*** (0.011)	0.053*** (0.012)	0.050*** (0.011)	0.043** (0.020)	0.044** (0.018)
(C)entralized			0.046*** (0.012)	0.099** (0.049)	0.384*** (0.106)	0.280*** (0.121)	0.292*** (0.126)
(N)o. cent.			-0.185*** (0.007)	-0.189*** (0.008)	-0.187*** (0.008)	-.023*** (0.009)	
No. cent. ²			0.012*** (0.000)	0.012*** (0.001)	0.012*** (0.001)	0.011*** (0.001)	
D × C				-0.016 (0.015)	-0.121*** (0.038)	-0.088** (0.043)	-0.090** (0.043)
D × N				0.001 (0.001)	-0.001 (0.002)	-0.001 (0.002)	-0.001 (0.001)
C × N				-0.003 (0.003)	-0.008*** (0.003)	-0.018*** (0.008)	-0.033*** (0.012)
D × C × N					0.011*** (0.004)	0.011*** (0.004)	0.014*** (0.005)
Union F.E.						Yes	Yes
Year F.E.							Yes

Continued

Table 3.3: (Continued)

Variable	Model						
	I	II	III	IV	V	VI	VII
Disaffiliated	-0.113*** (0.020)	-0.112*** (0.020)	-0.090*** (0.020)	-0.090*** (0.020)	-0.084*** (0.020)	-0.022 (0.035)	-0.021 (0.038)
Core industry	0.023*** (0.009)	0.021*** (0.009)	0.001 (0.009)	0.001 (0.009)	0.001 (0.009)	0.001 (0.009)	0.001 (0.009)
Union rivalry	0.006*** (0.001)	0.006*** (0.001)	0.003*** (0.001)	0.003*** (0.001)	0.002*** (0.001)	0.002*** (0.001)	0.002*** (0.001)
Ind. size	0.028*** (0.007)	0.028*** (0.007)	0.025*** (0.007)	0.025** (0.009)	0.026** (0.009)	0.025** (0.009)	0.025** (0.010)
Ind. conc.	0.043** (0.019)	0.043** (0.019)	0.039** (0.019)	0.039* (0.020)	0.038* (0.020)	0.038* (0.020)	0.038* (0.020)
Unit size	-0.134*** (0.003)	-0.134*** (0.003)	-0.139*** (0.003)	-0.139*** (0.003)	-0.140*** (0.003)	-0.139*** (0.003)	-0.139*** (0.003)
Union size	0.016** (0.006)	0.013* (0.007)	0.013* (0.007)	0.012* (0.007)	0.012* (0.007)	0.012* (0.007)	0.012* (0.007)
Right to work	0.029*** (0.011)	0.029*** (0.011)	0.036*** (0.011)	0.036*** (0.011)	0.036*** (0.011)	0.033*** (0.011)	0.033*** (0.012)
No. drives	0.000*** (0.000)	0.000*** (0.000)	0.000*** (0.000)	0.000*** (0.000)	0.000*** (0.000)	0.000*** (0.000)	0.000*** (0.000)
Constant	0.296*** (0.014)	0.329*** (0.020)	0.881*** (0.029)	0.889*** (0.032)	0.878*** (0.033)	1.061*** (0.040)	1.069*** (0.042)
N	86299	86299	86299	86299	86299	86299	86299
LL	-58292	-54269	-50114	-50314	-47909	-47622	-47212
Pseudo R ²	0.04	0.06	0.07	0.07	0.09	0.09	0.10

Model II introduces the measure of organizing diversity. Because the argument developed here assumes that unions develop a track record of past organizing successes that they can present to audiences, diversity's effect should be curvilinear. That is, unions suffer initial penalties when they start to diversify but see those penalties disappear as diversification proceeds. The model supports hypothesis 1 that diversification does carry with it a substantial penalty. The quadratic term suggest though that the penalties disappear for unions whose diversity ranges above .78, about the level reached by the ILWU and the UAW in figure 3-2. These are two of the most diversified unions in the sample. Model III introduces the measures for centralization and for number centralized. Again the square of the number centralized is also entered into the model. This is because the number of unions with centralized organizing is virtually zero at the start of the period and begins rising only after the early 1980s while the win rate falls before 1982 and then rises, as shown in figure 3-1. Centralized organizing is associated with a greater likelihood of winning an election, consonant with hypothesis 2. The number of unions with centralized bargaining also has a positive effect above 7.71, i.e., after eight unions had switched to centralized bargaining. The AFL-CIO crossed this threshold in 1988. This is consonant with hypothesis 3. It should also be noted that, once the effects of diversity and centralization are controlled for, the coefficient on core industry becomes insignificant.

Models IV and V introduce the interaction terms. The two-way interactions in model IV are not by themselves significant, which should be expected if some of these effects change their sign before and after the early 1980s. Including the three-way interaction in model V however makes the underlying patterns clear. For example, a union with centralized organizing that attempts drives in diverse industries experiences lower win rates when the number of unions with such organizing techniques is small—i.e., earlier in the period under consideration. Hypothesis 4 therefore has support only later in the period, which is consistent with the events described. The

adoption of reforms also matters: organizing diversely when many unions are centralized does not produce a significant change in the likelihood of victory if the union does not itself have a centralized organizing department. This finding is consistent with idea that union voters in the 1980s and afterward did not favor “generalists” as such but rather the structural changes associated with their theory of value. Finally, having a centralized organizing department later on in the period is actually associated with a lower likelihood of winning, *if* the union’s organizing remains concentrated. This supports hypothesis 6, but the latter penalty is relatively small.

Figures 3-5 through 3-7 show these findings graphically. Figure 3-3 had shown the estimated effect of diverse organizing on the probability of success for different *years*, but that association is problematic because it conflates the union structural changes that are of primary interest with other time-varying effects. Figure 3-5 therefore re-scales the *x*-axis to show changes in the number of unions that have adopted centralized organizing rather than time. The switch in diversification’s effect, from a penalty to a benefit—the two-way interaction between diversification and the number centralized—is still visible. Yet this effect in turn conflates diversification by unions that had adopted centralized organizing practices and diversification by unions that remained decentralized. Figure 3-6 therefore disaggregates the pooled effect into two parts, showing the three-way interaction between diversification, the number centralized and the adoption of centralized organizing. Figure 3-6 clearly diverse organizing is only associated with better win rates over time for those unions that had adopted centralized organizing practices, as hypothesized. Unions that diversify their organizing *without* centralizing the activity have no such benefit; these “opportunists” are less likely to win than the baseline, and the penalty that they face does *not* diminish with time.

Figure 3-6 contains an anomaly: it shows that centralized unions *always* benefitted from diverse organizing, which is not what the theory described here predicts. This

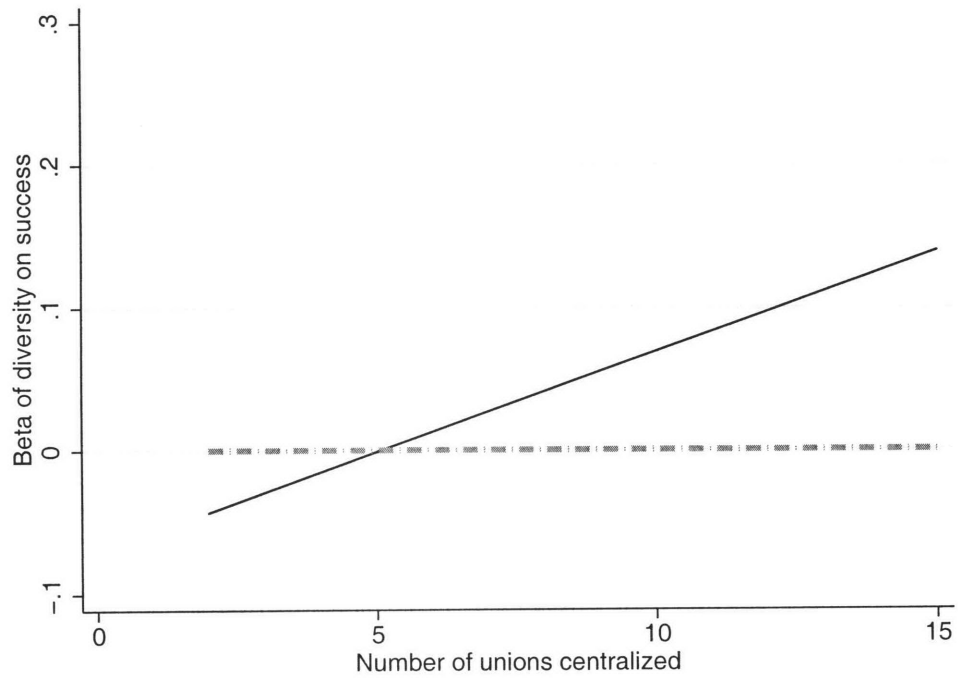


Figure 3-5: Estimated two-way interaction between diversification of organizing and the number of unions with centralized organizing.

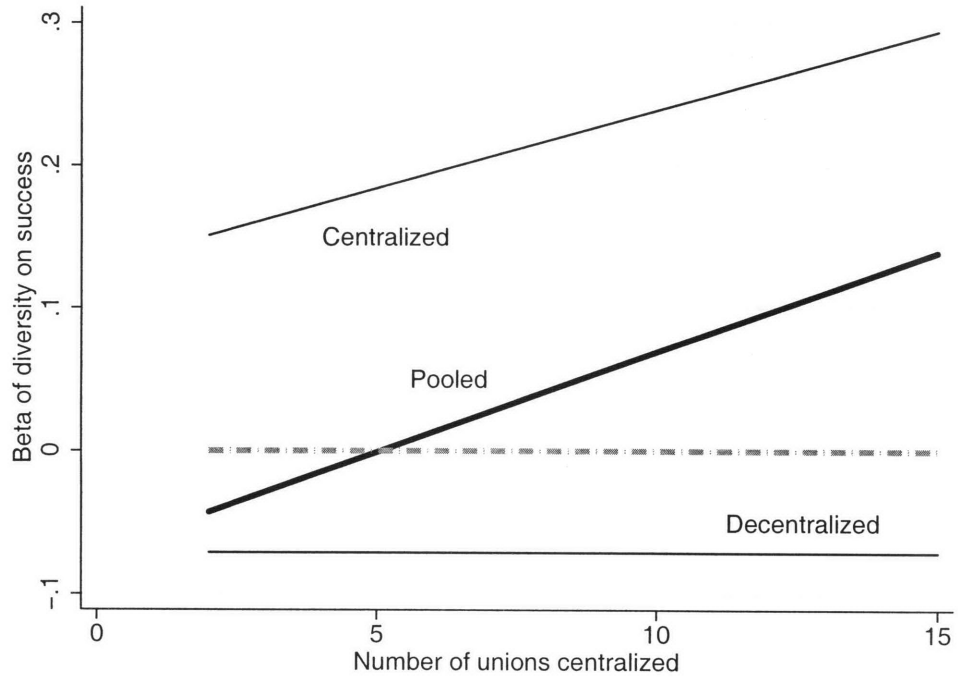


Figure 3-6: Estimated three-way interaction between diversification of organizing, the number of unions with centralized organizing, and a union's adoption of centralized organizing practices.

apparent benefit however is an artifact of comparing centralized to non-centralized unions. All of the estimated models predict that centralization by itself has a significant positive effect on win rates. Thus the preferred comparison would be between centralized organizers who concentrated their organizing activity within a few industries and centralized organizers who diversified their organizing activity across industries. Figure 3-7 therefore breaks out centralized organizing by concentration. When few unions have centralized their organizing departments, centralized unions that organize diversely win more often than decentralized unions, but *less* often than centralized unions that concentrate their organizing. Diversification thus still carries a penalty among this group. Yet the gap between these unions and the “merely centralized” shrinks over time, such that by 1992¹⁹ unions that are centralized and diverse are *more* likely to win organizing drives than any other group. After 1992, therefore, unions that have adopted structural reforms are expected to see an unambiguous benefit from diverse organizing.

Model VI introduces union fixed effects. Disaffiliation, which has little within-union variation to start with, naturally becomes insignificant in this model. The variables of interest however remain unchanged; the effects found in model V do not appear solely to be the effect of unobserved heterogeneity in union tactics. Model VII introduces year fixed effects. As discussed, the number centralized drops out of this model. Yet the other coefficients remain significant and of comparable size. That such relationships between the adoption of centralization, diversification of organizing and win rates should remain significant even when individual union and year effects are controlled for strongly suggests that the results documented in figure 3-7 are not simply picking up an unobserved time trend or union variation but instead reveal a meaningful correlation among these variables. In particular there is no evidence in these patterns of voter behavior to suggest a sharp break with past practice in 1982,

¹⁹Referring back to the corresponding point on the x -axis of figure 3-3.

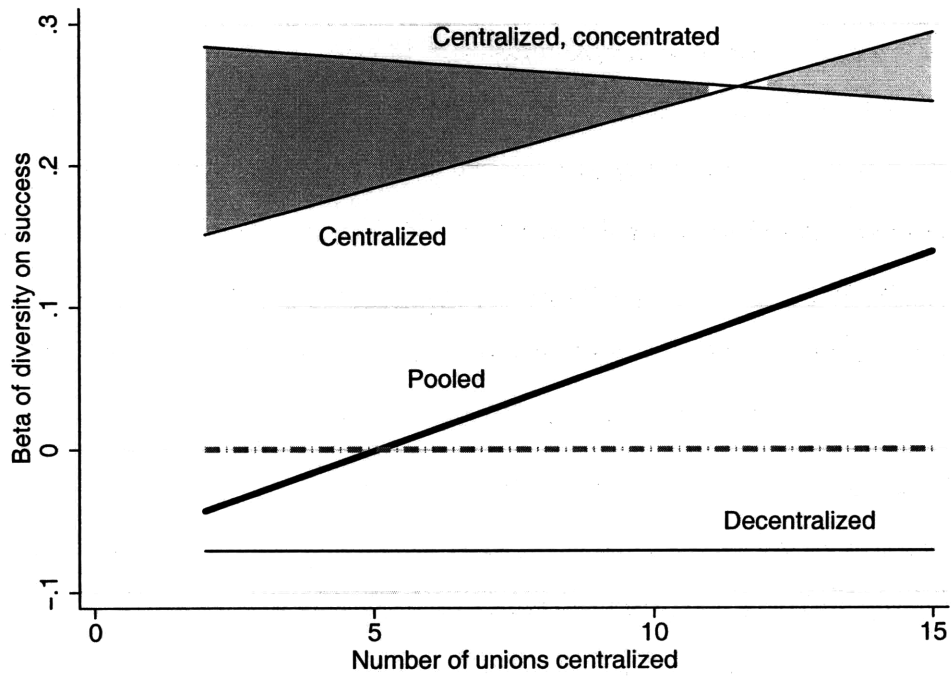


Figure 3-7: Comparison of diversity's effects on win rates for centralized, diverse organizers and centralized, concentrated organizers, as a function of the number of unions with centralized organizing.

the point at which the union-side data suggest things entered a crisis. New patterns of voter behavior emerged more gradually and were only widespread enough to change the expected effects of diversification by the early 1990s, nearly a decade later. This is inconsistent with the idea of simple jurisdictional collapse but accords well with the diffusion of a new lay theory of value among potential union members.

These results support the story told by organizers about how their and potential members' theory of value for joining a union changed. The penalties associated with violating jurisdiction declined over time, but not universally. Rather than simply voting in greater numbers for diverse unions over time, which would be consistent with a simple collapse of jurisdiction or a change in voters' preferences toward generalism for its own sake, audiences rewarded those unions who had diversified *and* who had undertaken the structural reforms associated with emphasizing organizing drives over contract negotiation. They voted, in other words, for the unions more likely to win recognition in the more hostile organizing climate of the 1980s and 1990s. In so doing, they downplayed the formal boundaries of industrial jurisdictions, boundaries that represented little that was of value to them.

3.6 Discussion and conclusion

The unions of the AFL-CIO developed a strong jurisdictional system that helped them secure labor-market power within those jurisdictions and thus gave them leverage to bargain agreements with employers that benefited their members. Members in turn supported the jurisdictional system. By voting against unions that were not specialized in their industries more often than against unions that were, potential members did not endorse specialization within a jurisdiction *per se* but rather cast their lot with unions that, because of their specialization, were more likely to win agreements that gave them, in Samuel Gompers's famous formulation, "More" (Currarino 2003).

Members' expectations were reinforced by a role structure of organizer-worker interaction wherein local business agents who had history in and detailed knowledge of the industry—and who were often slated to negotiate with the employer—connected candidate unions to members through pre-established social channels. While unions could “escape” some of the constraints of jurisdiction by disaffiliating, they could not completely overcome the suspicion that potential members would have of a union that operated outside a seemingly well-functioning system.

A quarter-century ago, that system stopped functioning well. Specialization within an industry went from being a winning strategy for unions to being a recipe for decline. Declining union strength undermined the means-end connection that members had assumed between jurisdiction and better contracts. It did so in two ways. First, the union wage premium declined over time. Second, the increasing difficulty of organizing new members made evaluating unions on contract-bargaining skills secondary to evaluating them on organizing skills.

Within organizing, unions and new members found the basis for a new theory of value. Unions' new organizing tactics, often focusing on multiple establishments in unfamiliar industries that were targeted by teams of professionally-trained organizers, appealed to new members who had few pre-established social contacts with unions and who pictured themselves becoming business agents. Such organizing was by its nature more portable across industries. Yet the unions who have had more success organizing outside their old jurisdictions have not been preferred for their lack of jurisdiction in and of itself any more than their specialization in earlier years was preferred in and of itself. Rather, their track record organizing in new industries is a proxy for a set of priorities and skills that potential members today see as valuable.

This study advances thinking on the operation of social classification by documenting how such a change in valuation might occur. Insofar as most applications of a category scheme are implicit and justifications are rarely spelled out, direct evi-

dence of how audiences use and value categories will necessarily be hard to find. The approach used here gathers evidence whenever possible from the people who helped perpetuate the old scheme and its replacement. Its primary quantitative tactic though is to determine the roles by which a scheme is reinforced and then to connect changes to those roles with changes in how audiences evaluate candidates. In union organizing drives, a key role has been the organizer and the unions' structuring of her function, as other work devoted to rebuilding the labor movement has suggested (Milkman and Voss 2004; Fantasia and Voss 2004).

Research on classification has deep if under-emphasized roots in network theory, as evidenced by the importance of the mediated market in Zuckerman (1999) early formulation. This study proposes that uncovering different role structures and how they reinforce or erode patterns of valuation is a swift and deep channel for this research stream to follow. (White 2008) outlined such a process more than forty years ago when he described how culture would arise out of network interactions:

People develop culture to meet their needs to visualize, operate in and modify the social structure to which they belong. Some nets persist for a very long time. The pair relation on which the net is based remains stable and clearly defined. *New persons are added to and leave the net, but according to clear-cut rules.* In such a net it is natural for the simplest kinds of indirect relations to be "institutionalized," that is, recognized in that culture as a distinctive new kind of relation. *Indeed, the rules of admission to the net regulate an indirect relation.* (White 2008, p. 11)

"The principal result of this evolution is the definition in the eyes of participants of a new type of relation, equivalence within the structure" (White 2008, p. 6).²⁰ In White's formulation, category schemes are as much a product of the patterns of interaction among audience members and candidates as they are of the candidate properties on which audience members discriminate. Theories of categorization that assume that the process is mainly cognitive bracket social interaction. They shift focus to the categories themselves (Ruef 1999) and leave unexplored why audience

²⁰Quoted in (Santoro 2008).

members would need to agree on the categorization of candidates in the first place (Hannan et al. 2007). Such approaches have little to say to the “roles from networks” tradition that White and his co-authors developed in structural sociology (White et al. 1976; Boorman and White 1976). One implication of this study, though, is that the change in valuation that potential members made of unions after the 1980s resulted in part from changed interactions between workers and unions, in particular the declining familiarity of workers with unions and the increasing rarity of union activity in any given industry. Future research into changes in category schemes should look for such changes in social-network patterns. The goal in doing so would be to know whether particular two-mode network structures tend to encourage, reinforce or erode category schemes. Simulation work seems an obvious way to develop some theoretical propositions on this front.

Understanding how the categories of trade unionism were reconfigured does not however yield many satisfying strategic implications for the labor movement. Though they are beyond the scope of this study, the roots of many unions’ branching out into new groups of workers are often quite historically contingent, not the sort of things that other unions can consciously emulate. The UAW had early success organizing university administrative staff, for example, because it absorbed the RWDSU’s erstwhile District 65, a group of locals that had already organized some office workers and that broke with the RWDSU over its support for the Vietnam War. The UAW had itself left the AFL-CIO over Vietnam in 1969, and that political act continued to give it credibility among many new members well into the 1980s. Rosemary, a union staff member who got started in the labor movement in 1983 by organizing university staff into a UAW local, put it succinctly: “We wanted to be in a union that we could be proud of. We knew the stand the UAW had taken on Vietnam, and that resonated quite strongly with many of us.” A “hardhat” union like the Painters could not make similar appeals to office workers even if it wanted to. The bicycle

messengers mentioned above had similar thoughts in mind when they rejected the Teamsters in favor of the ILWU; one activist said simply that “We wanted to be in a union that wasn’t a bunch of goons.” This is not to imply that the Teamsters *were* goons and the ILWU were not, only that many couriers thought that that was the case.

Complex organizations have complex identities; the fact is not limited to labor unions. Apple and Google have reputations as progressive employers that are independent of the perception of their products (Briscoe and Safford 2008). 3M developed a reputation for cutting-edge research and development even though it was best known for quotidian products like Scotch Tape (Jacobs 1968). Categorization may lead audiences to focus and organizations to specialize on one element of their identities, but the elements that are downplayed are still available. If the basis of valuation changes, those elements may become quite valuable indeed, but rarely are they originally developed for that purpose. The results in this study do suggest that unions that have shifted toward centralized organizing with professional staffs have been more successful in recent years than unions that kept organizing local. Yet many of these unions—the UAW, the ILWU, the SEIU, even the UBC—have taken “maverick” positions against the federation in the past. Given the confounding of political stances with the structural changes to organizing seen here, it remains an open question whether a “loyalist” union like the Boilermakers or the Glass Molders could change potential members’ perception of them. Even if they made the structural changes, they may not have the repertoire of past reputational actions that started many “generalists” down that road.

The stability of this new system of valuation is also open to question. Industry knowledge, particularly of the culture of industry and the details of the work process that were learned on the job and determined pay and performance (Doeringer and Piore 1971), is inherently less “abstractable” (Abbott 1988) and portable than corporate

research and professional organizing. Today, when some unions have changed their style of organizing and others have not, sorting on that specialization is a useful way to differentiate among candidate unions. Should all or virtually all unions begin to organize in the “new” way, then specializing in such portable skills would be less useful as a means to differentiate. At that point, with the first-stage screen of organizing ability held more or less constant across unions, a specific union’s contract-bargaining ability might well again become the best thing for audiences to focus on.

Thinking through such a change suggests one reason why cognitive explanations for categorization have seemed so compelling in sociological research. A category scheme that is stable in the long run will have as its basis of value some characteristic like deep industry knowledge that is inherently difficult to abstract. In a stable system, audience members will be seen making distinctions on durable, “concrete” differences between organizations. Absent change in the system it is easy to assume that audiences make such distinctions for their own sake. Doing so though leaves unexplained why the categories that audiences use sometimes completely change (Ruef 1999) or why a particular scheme is agreed upon in the first place (Lounsbury and Rao 2004; Zuckerman 2008). As with many things in organizations, the value assumed to inhere in a category scheme is usually implicit, and it is only when organizational practices are threatened and must change that the justifications for using them become explicit (Perrow 1986; Powell and DiMaggio 1991; Barley and Kunda 1992). This is why upheaval in a system of organizations like the trade unions is so important to consider. Future research into category schemes should pay close attention to the justifications that audience members give for using the scheme and be alert to changes, either in the rationale for applying the existing scheme or in the rationale for applying new categories.

The irony is that even as virtually all observers agree that industrial jurisdiction is an outdated and useless concept, labor’s jurisdictional system is still the basis for

sometimes bitter disagreement. The disaffiliation of seven unions in 2005 to form the Change To Win coalition (Master and Rosenstein 2005) was driven in part by its member unions' advocating the "rationalization" of the AFL-CIO to have fewer and larger unions that would be better prepared to focus on organizing new workers in multiple industries (Bai 2005). Fifty years after the merger that formed the AFL-CIO, "intra-union debates on what sometimes seemed arcane questions of jurisdictional boundaries" were still occasionally being "spectacularly dramatized."

Organizational crises are fruitful for research if not always for the organizations themselves. The collapse of the American labor movement has been a calamity. That its struggles to reinvent itself can give researchers insight into the workings of social categorization and valuation is cold comfort indeed. Whether and how that movement will rebuild itself is one of the great looming questions of social science and public policy. This study points to how some changes that unions have made in the medium-term, such as the centralization of organizing and the training of full-time, professional organizing staffs, have apparently been productive, albeit within a context where even the high-performing unions have expanded their membership but slightly. Though the old is dying, the new is clearly not yet born. It is almost impossible with one system, even one involving scores of unions over scores of years, to know what elements of past behavior may predict future performance. The most urgent next step in this research therefore is to conduct similar explanations in different organizational settings to build the breadth of comparisons that would make such predictions feasible.

Chapter 4

Turning Points in Labor: Theory, Challenges and Opportunities

In this essay we¹ develop the concept of a “turning point” in American labor, which we operationalize as significant changes in present and future membership. We propose that turning points are the result of the combination of a significant swing in political control of the government, legislative change that affects the mechanisms of union organizing and changes in union and/or employer strategies that take advantage of a redefinition of the legitimate targets of unionization to include or exclude new portions of the labor force. We examine four such turning points in twentieth-century American labor relations: the Great Depression, the adoption of the Taft-Hartley Act at the start of the Cold War, the surge in public-sector unions in the 1960s and the decline of private-sector unions in traditionally unionized sectors, firms and occupations in the 1980s. In each of these four cases, social groups had begun to challenge the existing limits of unionization; subsequent state action legitimated their efforts and allowed them to expand their activity. By contrast, no surges in present or potential membership have occurred in periods when militant bargaining activity or legislative

¹This essay is joint work with Thomas A. Kochan (MIT) and Lucio Baccaro (Université de Genève).

reform happened separate from one another. In light of these facts, we argue that the shift in political power from a Republican to a Democratic president and congress and the potential enactment of the labor-law reforms currently under debate in Congress, i.e., the proposed Employee Free Choice Act will not by themselves generate a turning point for U.S. labor. Only if these are combined with changes in union targets and strategies for organizing and representing workers will a turning point in union membership occur.

4.1 Introduction

The long history of the U.S. labor movement has been one of spurts and stasis (Freeman 1998). There is considerable speculation that the United States may today be on the verge of another spurt, given the length and depth of the current recession and the Democrats' recent electoral victories. Also as of this writing, the United States is closer to adopting major reforms of its union-organizing laws than it has been for more than thirty years. The passage of the Employee Free Choice Act, which would make it considerably easier for unions to enroll new members than it is now, seemed like a science fiction even four years ago but today is a distinct possibility. We outline the conditions that previous periods of great potential union growth and decline have had in common and use that comparison to gauge whether we are today at another turning point for labor.

The United States has been this close to labor-law reform before. A reform bill supported by the Carter Administration came within one vote needed to break a filibuster and secure passage in the Senate in 1978 (Mills 1979). Yet today's debate happens against the backdrop of the worst economic crisis since the 1930s. Labor scholars have long debated whether the surge in unionization in the 1930s resulted from top-down state policies that changed workers' and employers' opportunity struc-

tures or from bottom-up changes in workers' behavior, driven by changes in economic conditions. Given that today the country could face *both* changes in the economy and in the legal regime, it is small wonder that industrial relations scholars should ask whether America faces another "defining moment" like that of the depression years.

The renewed interest in and debate over the formal institutions that govern what in America has become a minority system of workplace regulation might seem a distraction. Twenty-seven years ago, in his review of one of the authors' textbook on industrial relations, Richard Hyman castigated the American profession's narrow focus on "the institutional framework of collective bargaining, the conduct of negotiations and the dispute resolution process" (Hyman 1982, p. 103) and its corresponding neglect of political engagement, unions' wider role in society, and the details of the work processes that were being regulated. With its focus on the mechanisms of union-local formation and recognition, EFCA too neglects these things. Nor does the American labor movement yet seem to have a detailed plan for capitalizing on American workers' economic insecurity and popular anger at those who have run the economy in recent years, exactly the sort of issues that helped drive the explosion in labor organizing during the Great Depression (Bernstein 1960). Certainly the EFCA offers no cogent response to the basic shifts in the American economy that are so often lumped under the label of "globalization" and which pose at least as serious a threat to unions as does individual firms' hostility toward union organizers—a point which Hyman was among the earliest in the field to make (Hyman 1995).

We agree with this critique and use it and more recent calls for going beyond outworn "demarcations of arenas of engagement, between 'industrial relations' and 'politics'" (Hyman 2002, p. 14) and for examining how formal institutional arrangements can shape collective "vocabularies of motive" about which courses of action are legitimate and which should be excluded from consideration (Hyman 2004; Baccaro and Ferguson 2009) to examine past and potential turning points for American la-

bor. We define a “turning point” in labor as a period when a significant departure in the trend rate of union growth or decline occurred. We suggest the confluence of three changes account for these turning points: a swing in political control of the federal government, a change to the union-organizing laws and a change in the popular understanding of unions’ place in society. To operationalize the third of these, we focus changes to the popular conception of who should and should not be a union member, under the law. Our approach therefore is to consider explicitly how formal institutional changes have altered organization’s opportunities and strategies and in so doing have changed popular interpretations of union membership, therefore driving outside changes in labor-movement strength.²

We examine the four major turning points in American unionism—the passage of the National Labor Relations Act in the 1930s, the Taft-Hartley amendments to the NLRA in the late 1940s, the legalization of public-sector unions in the 1960s and the collapse of private-sector unions in the 1980s—and try to separate out the apparent effects of each policy intervention from pre-existing historical trends and political developments. Because history is over-determined, we cannot isolate the independent effects of these policy changes. Indeed the point is that they do not have effects independent of the changes in politics or union or employer strategies. In so doing, we sketch out what changes we would need to see in order to conclude that *today* is another such turning point for the labor movement.

Our study is focused on the United States. We bring in international comparisons only to draw attention to those places where theorists who have focused *solely* on developments within the United States have ignored evidence from abroad that would contradict their theories. Such comparisons are particularly important because, as we argue, previous turning points in American labor history have so impoverished the

²We do not put the concept of a turning point forward as a new or unique piece of theory. Similar exercises have been performed looking at the transformation of other organizational forms, as for example the large corporation (Fligstein 1990; Roy 1997; Dobbin and Dowd 2000), the federal state (Dunlavy 1994; Katznelson 1981, 2005; Weir et al. 1988) and the private insurer (Zelizer 1979).

American labor movement's "vocabulary of motive" that it considers impossible (or does not consider) policies that are taken for granted in most industrial societies. If one of the major effects of institutional change is to shape precisely those vocabularies, then taking the latter for granted all but assures that any changes brewing today will *not* constitute a turning point. We conclude that, while a reform like the EFCA is a necessary component of any such broader transformation, passage of a reformed labor law alone will not result in major changes in union membership. That will happen only if the changes in the political environment and the passage of EFCA or some variant are combined with significant changes in the organizing and representation strategies of existing or future unions.

4.2 Four turning points

Figure 4-1 shows historical union density for private- and public-sector workers (combined) in the United States since the turn of the last century. There had been bursts of sudden union growth before the 1930s—specifically, during the economic boom around 1900 and during the mobilization for World War I (Montgomery 1979; McCartin 1997)—but those expansions collapsed as soon as the tight labor markets or wartime government pressures that birthed them subsided. Average trade-union density in America oscillated between 5 and 10 percent of the labor force between the end of the Civil War and the Great Depression. Figure 4-1 also reflects what Dunlop (1958) noted half a century ago: union density in America, as in other countries, has declined at varying speeds but has never *grown* gradually. Virtually all increases in membership have come in the span of a few years.

Four points in figure 4-1 concern us here. First, trade-union density began rising sharply within a year of the Wagner Act's adoption in 1935. Density continued to increase rapidly until 1947, at which point growth virtually halted; after creeping

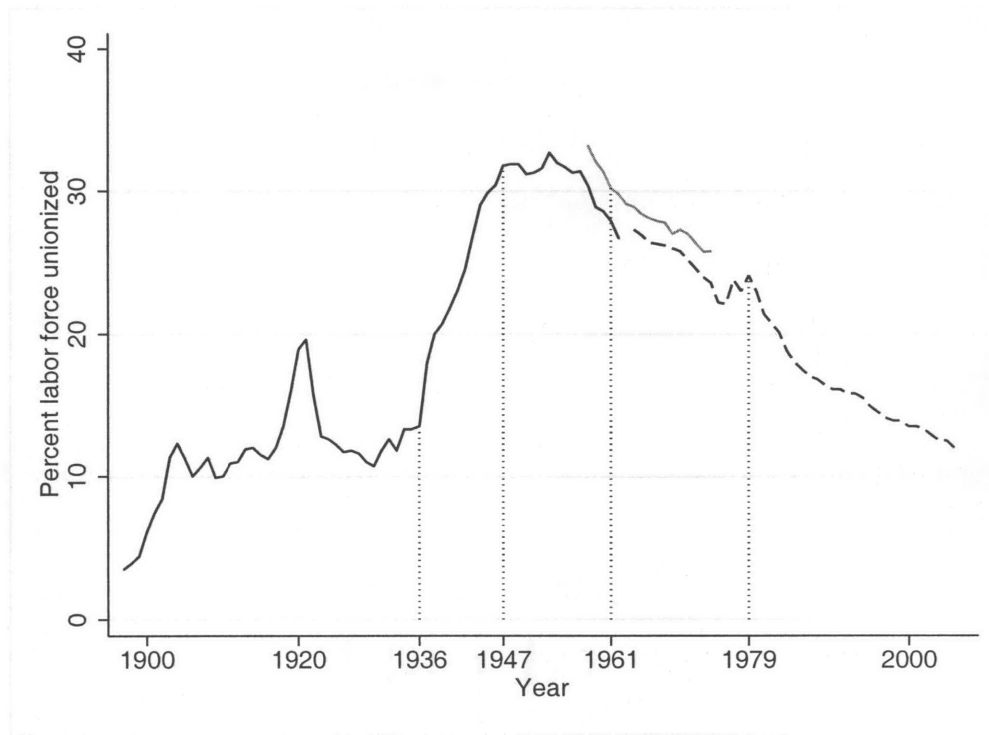


Figure 4-1: Trade-union density in the United States, 1897–2000. Solid black line from Troy (1965). Dashed line from Hirsch and Macpherson (2004). Grey line, adjusted to show public-sector membership, from BLS (1979).

upward for six more years (mostly due to expansion of existing bargaining units rather than truly “new” organizing), union density began its sustained, half-century-long decline. While 1962 does not appear to be a significant year based on the time-series in figure 4-1, this is because of the relative difference in size of the private and public sectors. When the two are considered separately, as in figure 4-2, it becomes clear that public-sector union membership began to grow quite rapidly in the early 1960s and did so through the mid-1970s, even as no similar changes occurred in the private sector. Finally, the rate of union density’s decline increased sharply in the early 1980s, largely as unionized private-sector establishments closed during the recession and new establishments increasingly opened without union representation.³ The change in the early 1980s is even more stark in terms of new-union *organizing*. As figure 3-1⁴ demonstrated, the unions’ traditional rate of organizing collapsed in 1982, during the depths of that recession, and never recovered to more than half its previous level.

With new organizing relatively throttled, attrition of unionized establishments has meant continued declines in union density, such that today private, non-agricultural union density is comparable to that in 1901. While many scholars and practitioners find these low numbers cause for concern if not despair, the labor movement has repeatedly grown to considerable prominence from similarly low starts over the last century. Understanding such turning points—when labor-union density grows, when growth is cut off and when it shrinks—is thus of particular concern to anyone interested in reversing such declines.

³The apparent uptick in trade-union density in the late 1970s, shown in the Hirsch-Macpherson data series, is due to a change in the wording of the Current Population Survey’s question about union membership, which was expanded to include the phrase “. . . employee associations similar to a union.” This increased the measured density of public-sector unions starting in 1977 (and also belies much of the decline of public-sector unions suggested in figure 4-2). The data from the Bureau of Labor Statistics (BLS 1979) that cover 1960–1975 are adjusted to take this misclassification into account; extending that series makes it apparent that there was no increase in density in the late 1970s. Personal correspondence with Barry Hirsch, 28 January 2009.

⁴See chapter 3.

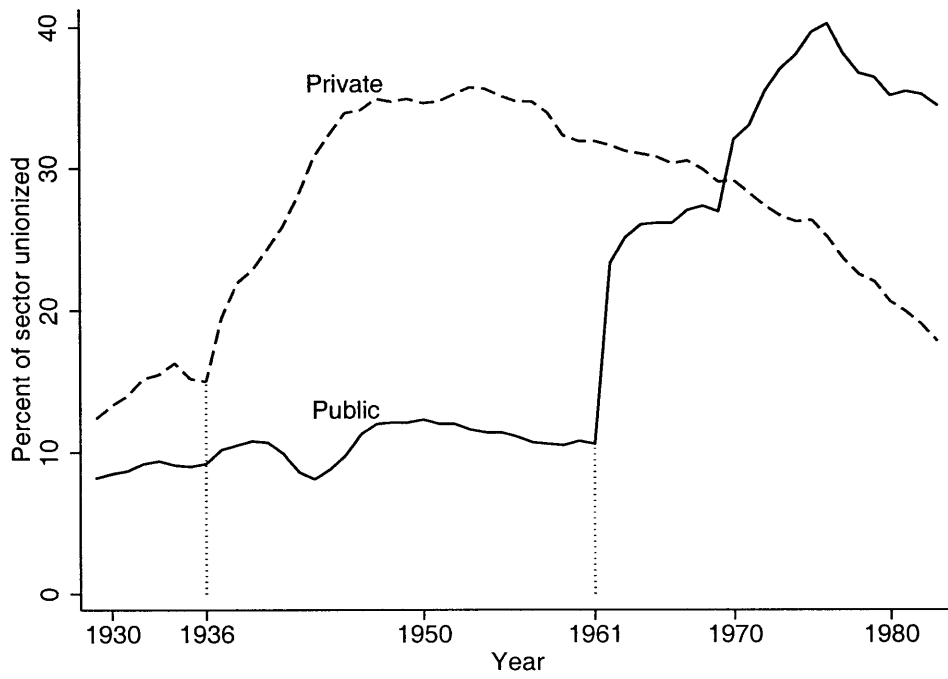


Figure 4-2: Trade-union density in private and public sectors, 1929–1983. Source: Troy and Sheffin (1985, Appendix A).

4.3 The NLRA and the industrial unionist

That the 1930s were a turning point for American labor is a truism. Unlike during earlier periods, when union density surged and almost immediately collapsed, American union density in the 1930s rose beyond its earlier peaks and stayed there; only in the early 1950s would aggregate union density begin its long decline (Troy 1965). We do not propose to recount the major events of the Roosevelt Administration's labor policies here. Instead we underline three characteristics of the reforms of the 1930s that, as described above, have been common to such pivotal moments in American labor history: a shift in political support, legal reform and a change in organizing and bargaining strategies that took advantage of a re-definition of the workers eligible for unionization.

Franklin Roosevelt's landslide election over Herbert Hoover, three years into the depression, marked the definitive rejection of the Republican Party's economic policies (Schlesinger 2003). The long Republican control of Congress had been badly eroded in the 1930 midterm elections and technically lost after two special elections in early 1932, but Roosevelt's coat-tails cost the GOP a further 101 seats. Furthermore, because the old core of Democratic congressmen were primarily from the South, the northern, urban and western liberals in the freshman class of 1932 shifted the majority sharply leftward. The combination of greater numbers and greater ideological clout laid the foundation for the changes that would follow (Bernstein 1985; Kennedy 1999).

What followed was the most substantial institutional transformation of the labor *regime* in American history. The National Labor Relations Act (Wagner Act) of 1935 was not the federal government's first attempt to deal with the "labor issue," but it was by far the most comprehensive. While most previous labor legislation had focused on the mechanics of dispute-resolution between employers and established unions, the NLRA for the first time created a set of rules governing the establishment of new unions and the continuation of their representation rights through business

cycles and changes in the government. The importance of this change should not be underestimated. As long as union recognition remained a private affair between workers and employers, the only avenues that unionists had to secure and maintain employer recognition were through monopolistic control of their knowledge of the production process (Taylor 1981; Braverman 1974; Hyman 1975) or through unremitting militancy (Montgomery 1979; Seidman 1994). This combination of tactics ruled out the possibility of stable unionism in particular for unskilled or semi-skilled production workers in mass-production industries like meat-packing, rubber, automobiles, electrical equipment and chemical refining, whom the company could and did easily replace. The Wagner Act changed both workers' and employers' opportunity structures by barring some otherwise-effective tactics (Dobbin and Dowd 2000) and sanctioning some heretofore-illegal ones:

The law . . . was designed to put in place a permanent set of institutions situated within the very womb of private enterprise, which offered workers a voice, and sometimes a club, with which to resolve their grievances and organize themselves for economic struggle. It guaranteed workers the right to select their own union by majority vote, and to strike, boycott, and picket. And it enumerated a list of "unfair labor practices" by employers, including the maintenance of company-dominated unions, the blacklisting of union activists, intimidation and firing of workers who sought to join an independent organization, and the employment of industrial spies. . . . Whenever a majority of a company's workers voted for a union to represent them, management had a legal obligation to negotiate with that union alone over wages, hours, and working conditions (Lichtenstein 2002, p. 36).

As powerful as these changes seem on their face, their full impact can only be seen in light of how they helped resolve a long-running debate about the place of the industrial, as opposed to craft, worker in the union movement. Today's debates about the place of the unskilled, temporary and/or undocumented workers within unions recapitulate an argument that has flared up repeatedly in the United States and elsewhere, since well before the founding of the AFL (Voss 1983; Milkman and Voss

2004; Milkman 2006). The dominant thinking of the early 1930s, among labor leaders as among politicians and commentators, was that unskilled workers were largely unfit for unionization. Partly this argument was merely racist, based on the ethnic and racial differences between most middle-class and craft workers and the new industrial masses (Roediger 1991; Cumbler 1989; Jacoby 1985); but partly too it was based on past experience with seeing mass-production workers surge into unions and just as quickly flow out when economic conditions turned against them (Zeiger 1995; Kessler-Harris 2003). Most fundamentally, the ease with which employers could fire unskilled workers who showed an interest in unions meant that organizers among the unskilled had no leverage comparable to the craftsman's monopoly on skill (Montgomery 2003).

By linking industrial union recognition to the mechanisms of democratic citizenship, the Wagner Act helped legitimate unskilled workers' aspirations for self-organization. By putting a legal "floor" on employer resistance to unionization, the act made organizing such workers seem appealing to unionists who had given up on them. At the same time, the act's impact is easy to overstate. It corresponded with an intense debate within labor over whether the AFL's craft organizing model could be used to organize unskilled workers in mass-production industries and with the subsequent founding of a new labor federation, the CIO, that was unconstrained by the AFL's traditional jurisdictional lines or organizing mindset. In light of the subsequent explosion of union membership in the 1930s, it is tempting to overlook both the continuing disagreement over how to organize industrial workers and the resistance that employers in electrical equipment, automobiles and particularly textiles and timber maintained over the following decade (Cowie 1999; Griffith 1988). Most employers were prepared to treat the NLRA as unenforceable as the predecessor sections of the National Industrial Recovery Act, and it was only through considerable public strikes, battles with employers, political agitation and sustained pressure on the National Labor Relations Board (NLRB) that the subsequent status of industrial

unions was secured (Tomlins 1985b). The significance of the Wagner Act turning point, though, is precisely that neither formal institutional change nor grassroots agitation was sufficient to increase union density. Rather than seeing one movement as a response to another, it is worth considering how mass action by industrial organizers goaded the state into action, and how the state's new policies gave intellectual and popular legitimacy to a different conception of organized labor—one that, like legal advances won by other social movements (Meyer and Minkoff 2004), then allowed activists to consolidate some of their gains and open new fronts.

This interplay between the state and organizers differs from what Freeman (1998) described in his widely cited account of “spurts” in union growth. Freeman was skeptical about “top-down” state policies’ explaining union growth because union membership grew discontinuously in so *many* different places in the 1930s (See table 8.4 in Freeman (1998, p. 273)). The growth in union density abroad in these years should indeed caution researchers against putting too much weight on any single country’s institutional changes. Yet while the economic crisis of the 1930s altered workers’ behaviors in many countries, it also convinced multiple states to enact legal changes. That state policies were not exogenous to the economy does not mean that they did not help workers capitalize on their interest in self-organization. Furthermore, several of labor’s subsequent turning points, such as growth in the public sector, have been more temporally staggered across countries (Nicholson 1981). Our interest here is on the interplay between the state and unions during these episodes. That several states engaged in similar interplay in the 1930s makes it tempting to assume that economic changes by themselves explain turning points in labor. Hence the importance of considering other episodes where economic events and state responses were not so coordinated.

We have used the unions’ successes in the 1930s to sketch out three changes that together constituted a turning point for labor: a major political change, a major

institutional reform and a major reconceptualization of who ought belong to a union. A similar confluence of forces was associated with the growth of public-sector unionization in the 1960s. In the 1940s, though, the same changes were present but the political and ideological interest moved in the opposite direction. Under those circumstances, instead of being expanded, opportunities for enrolling new segments of the workforce in unions were foreclosed.

4.4 Taft-Hartley: Excluding supervisors and separating professionals from production unions

In a pair of papers at the beginning of the decade, Henry Farber and Bruce Western summarized several decades of research into the decline of union density (Farber and Western 2001, 2002). The authors decomposed the decline of private-sector union density into two components: the changes in unions' new-organizing rates over time and shifts in employment between the "union" and "non-union" sectors of the economy. Declines in union organizing, particularly after the 1980s, have certainly affected density rates but have been dwarfed by shifts in employment composition. The authors concluded that, had new organizing held at its 1970s rate, private-sector union density would still have fallen from 18.4 percent in 1981 to 9.7, rather than to 7.4, percent in 1998 (Farber and Western 2002, p. 399), due to the continuing decline of union-sector industries.

Farber and Western's studies are important here for two reasons. The first reason is that their decomposition of trade-union decline is invaluable for estimating the likely effect of an act like the EFCA. The second reason is that their argument takes as an assumption the result of the turning point in the 1940s: the separation of the economy into union and non-union sectors after the passage of the Taft-Hartley amendments to the National Labor Relations Act in 1947.

Union density varies by occupation in almost every country, and both basic agreements and laws vary in how particular classes of employees can join unions. The United States though as one of the most drastic of such divisions encoded in its basic labor law (DeChiara 1993). Specifically, the Taft-Hartley amendments to the NLRA removed the act's protections from supervisory personnel and independent contractors. The 1947 act drew a bright line between management and workers; not only did it prohibit supervisory organizing but it explicitly permitted employers to fire supervisors who did not follow management policy with respect to union activities. As a result, the union most active in organizing supervisors in the decade following the Wagner Act, the Foremen's Association of America, disappeared in the years following Taft-Hartley (Lichtenstein 1989). The NLRA as amended by Taft-Hartley still allowed professional workers to organize but it put into place separate procedures that had to be followed before groups of professionals could be included in bargaining units with non-professionals.

Like the NLRA twelve years earlier, the Taft-Hartley Act was adopted after a significant swing in national politics. In the 1946 mid-term elections voters, disenchanted by postwar inflation, price controls and a massive wave of strikes, gave control of both houses of Congress to the Republican Party for the first time since 1928 (Schrecker 1986). Just as the 1932 elections brought in more liberal Democrats who offset the party's conservative, Southern wing, the 1946 elections both shrank the Democrats' seat totals and shifted the political center of the party in Congress to the right. An alliance of congressional Republicans and southern Democrats used the 80th Congress—the only time that Republicans would control both houses between the depression and 1995—to pass the Taft-Hartley Act over President Truman's veto.

The political fight over Taft-Hartley was recognized as a turning point at the time by all parties. Walter Reuther, then president of the CIO, famously dubbed the act a "Slave-labor law" and even George Meany, head of the more conservative

AFL, called it “The first, savage thrust of fascism in America” (Lichtenstein 1995, p. 332). Admittedly, most of labor’s outrage at the time was directed toward the act’s provisions to ban closed shops and organizing tactics like secondary boycotts and *common situs* picketing (Tomlins 1985a), as well as its requirements for union leaders to sign non-Communist affidavits. Yet as Lichtenstein (2002, p. 120) has argued, “The magnitude of labor’s defeat on the issue of supervisory unionism has become clearer with each passing year. The unionization of finance, engineering, insurance, banking, and other private-sector service industries proved virtually impossible with the ban on supervisory unionism.”

The Wagner Act’s adoption had helped legitimize unionization in mass-production industries, but it left open the potential for collective bargaining in more white-collar jobs. The expansion of the federal government during World War II had brought increasing swathes of the economy under federal regulation (Baron et al. 1986) and the state’s explicit ideals for which it had fought the war seemed to support if not require extending democracy into an ever-increasing portion of economic life (Montgomery 1997).⁵ White-collar unions like the Insurance Workers, the Federation of Government Employees, the Technical Engineers and the Office Employees hoped to play the same role in the clerical occupations that other CIO unions had played on the assembly lines. The Foremen’s Association of America extended the same logic back into industry, where union recognition of production-level employees made senior management’s arbitrary power over front-line managers more glaring by contrast (Wray 1949; Lichtenstein 1989). An observer in 1945 might be forgiven for projecting that unionization would grow alongside the new technical industries, given the events of the previous decade (Foster 1975, p. 108).

The Taft-Hartley Act blocked this growth. Its immediate effects were to ban organizations like the Foremen’s and to severely hamper organizing by other white-collar

⁵See (McCartin 1997) for an account of similar ambiguity introduced by state mobilization policies during and immediately after World War I.

unions. The Office Employees for example had won major strikes among clerks on Wall Street in 1946; but starting in 1948 the union shifted most of its organizing efforts to campaigns in Canada, where it did not face Taft-Hartley's legal barriers (Finley 1975). Most employers were quick to use the staff positions of their white-collar workforces to argue that they fell outside the NLRA's jurisdiction (Phillips-Fein 2006); the Technical Engineers for example explained at the AFL-CIO's 1957 convention that they had largely abandoned large-scale organizing efforts over the previous decade because employers repeatedly and successfully challenged the proposed jurisdiction of the AFTE's bargaining units (Quoted in AFL-CIO (1991)). Taft-Hartley's longer-term effect therefore was to draw a "sociological frontier" (Lichtenstein 2002, p. 118) around the portions of the economy that were "legitimate" targets for union activity. This division was not hard and fast in the original law. It has taken several decades' of the NLRB's ratifying employer classifications of employees as supervisory for the purposes of the act to formally deny union protections to many American workers (Levine and Lewin 2006). Popular opinion however has developed in line with the Taft-Hartley Act's broad interpretation. While professional employees retain the NLRA's protections, the popular equation of professional with supervisory positions convinced even many eligible white-collar personnel to consider themselves ineligible or inappropriate candidates for unionization. Not surprisingly, surveys conducted decades later showed that white-collar workers were significantly less inclined and more ideologically opposed to joining a union than their blue-collar counterparts (Kochan 1979).

Much has been made in the United States about the inapplicability of unions to professional and high-technology industries. Ironically, many of the closest observers of the economy and society during the 1950s and 1960s shared that assumption, despite having lived through the political fights of the late 1940s (see for example Dunlop (1958); and contrast Chamberlain (1948) with Chamberlain and Kuhn

(1965)). Such arguments have always been challenged by the spread of unionization among white-collar, professional, private-sector employees in other countries where the prohibitions on their organizing were not so strong (Rowan 1983). This is not to downplay the difficulties that white-collar organizing has faced in other countries but rather to note that the extreme delineation of of the American economy into union and non-union occupations, to which both employers, policymakers, employees and many unionists hold, is in part a political artifact (Winner 1986) of the struggle over the boundaries of trade unionism half a century ago. An American counterpart for example to *Danmarks Jurist- og konomiforbundet*, the Association of Danish Lawyers and Economists, today seems oxymoronic. To paraphrase Lowi (1972) classic formulation, different polices about union membership in America created different politics among potential union members.

The chief empirical difficulty with including the late 1940s as a turning point is that this struggle's effects on union-membership numbers is ambiguous. The trend in union membership after 1947 is not a decline so much as a leveling-off. It is telling that the rate of union *growth* dropped off sharply after 1947, though maximum union density in the United States was not reached until 1953. Taft-Hartley's effects on union density are therefore necessarily counter-factual, in that a large and increasing share of workers have over time been ruled ineligible for membership. Yet given both the political backlash against the New Deal in 1946 and the ambitiousness of the act, it does not take much extrapolation to contemplate this period as a bookend to the upheaval of the 1930s. Indeed most contemporary labor historians give precisely such an interpretation to the events of 1947 (Harris 1982; Boris 1994; Lichtenstein 2002; Nicholson 2004); Schatz (1983) in particular argued that the low density in American high-tech industry has its roots in the fissures that Taft-Hartley made in the electrical workers' unions. It is precisely this degree of contingency in the Taft-Hartley fight that leads us to consider it as a turning point. International comparisons are the most

obvious way to demonstrate that the limitation of unions to manufacturing employees was not driven solely by technological or sociological changes. There is however a more example closer to hand: the speed with which unionism was re-conceived to apply to some professional and supervisory employees—those in the public sector—after 1960.

4.5 Public-sector unions in the 1960s

The early 1960s were another turning point in union membership. Prior to then, union membership had largely been confined to private-sector workers. Though both the AFL and CIO had federated member unions that tried to organize in the public sector, their accomplishments were limited to manual workers in non-essential services, such as letter carriers and a smattering of office personnel (Mills 1951). Few organizers (and fewer public employees) saw benefits to collective bargaining, both because they lacked the legal protections to collective bargaining that the Wagner Act gave private-sector workers and because they lacked a right to strike. Indeed most public-sector unions or professional associations faced considerable legal penalties, not just dismissal, if their members did not report to work. Without the right to strike, collective public-sector bargaining would, in the dominant view of labor leaders at the time, be nothing more than “collective begging” (*TIME* 1944).

Moreover, the prevailing attitude of both public-sector workers and managers was that unionism had no place in government. Among political leaders, the idea that public servants might refuse to work bordered on the treasonous and had done so at least since Calvin Coolidge’s famous admonition against Boston’s 1919 police strike, that “There is no right to strike against the public safety by anybody, anywhere, any time” (Francis 2005). For their part, public-sector workers saw little common social or economic ground with a labor movement that the Taft-Hartley Act had increasingly confined to the factories: “Unlike the blue-collar working class, public employees

often sat behind a desk, took a regular paid vacation, and kept their fingernails clean” (Lichtenstein 2002, p. 181). Labor scholars shared these common conceptions: neither public-sector unionism nor collective bargaining were even mentioned in the first two editions of the most widely used collective-bargaining textbook of the era (Chamberlain and Kuhn 1955, 1965).

Yet three things changed in the early 1960s. The political shift, from the Eisenhower Administration that had largely ratified portions of the New Deal under Republican government to the Kennedy Administration, was perhaps the least dramatic change. The turnover corresponded though with the surging of the civil rights movement, a movement that drew many of its most dedicated activists from the growing ranks of public-sector workers, who in turn were increasingly recruited from minority communities (Aronowitz 1998). A Democratic administration, indebted to labor’s political mobilization for a close victory and cognizant of the political aspirations of millions of non-white Americans, was ill-placed to ignore the ramifications of such activism, particularly in the face of several visible and clearly illegal strikes such as those led by New York teachers (Burton, Jr. 1979) and hospital workers (Freeman 2000) in 1961. In the public sector, workers’ aspirations to match the pay and benefits won by blue-collar unions dovetailed with liberal politicians’ desire to consolidate a new voting bloc.

The second change was enabling legislation. Kennedy had made strengthening public-sector organizing one of his campaign promises, and in January 1962 he signed Executive Order 10988, which authorized both unions and a limited form of collective bargaining (covering non-wage issues and without the right to strike) for federal employees. Several similar such acts had been put into place at lower levels of government: New York City under Senator Wagner’s son, Robert Wagner Jr., had recognized city workers for collective bargaining in 1958, and Wisconsin had passed a limited statute in 1959. Kennedy’s executive order though was a watershed: Wis-

consin greatly expanded its statute in 1962 and within six years similar statutes were enacted in those states with strong private-sector labor movements, high per-capita incomes and progressive political traditions (Kochan 1973).

The third change—the identification of public-sector employment with unions, by both organizers and potential members—both stemmed from and reinforced the other transformations. Partly the very growth of wages and benefits negotiated by private-sector unions, which eroded the earnings advantage of a white-collar civil servant, also eroded the latter’s sense of indifference toward employment tactics like collective bargaining (Mills 1951). Partly the same exclusion from the NLRA’s protections also meant exclusion from the Taft-Hartley Act’s prohibition on supervisory unionism. Most state-level, public-sector statutes therefore allowed supervisors (school principals, middle- and in some cases upper-level police and fire officers etc.). And partly the government’s pre-existing civil-service protections made the relationship between labor and management less fraught than in many private-sector firms. Moreover, unions learned that the combination of political influence with mayors, governors or other “management” officials along with impasse procedures built into the public-sector statutes (factfinding and, in some cases, arbitration) were sources of power that could make up for the lack of the right to strike. Since employees faced few or no risks by joining, the ability to bargain over wages and unions’ services handling grievances, training new workers and lobbying the government meant that membership carried a net benefit. Correspondingly, unions began competing to organize teachers, fire-fighters, police, sanitation workers and others; and such workers signed up in droves. Public-sector union density tripled in the 1960s, from less than 10 to more than 32 percent. By 1976 it had surpassed 40 percent, roughly where it remains today (Troy 1965; Farber and Western 2001).

The turning point in the 1960s is notable both for its breadth and for its limits. At the same time that many social scientists were discussing the inapplicability of trade

unionism to white-collar work (Kerr et al. 1960; Bell 1973; Barbash 1964), unionism surged among a large component of the white-collar workforce: those in the public sector. Within a decade, a group of workers who were considered the *least* likely ever to join unions became the *most* likely to be in them. Yet earlier commentators were not deluded. Given the institutional environment in which public-sector workers had operated, they were quite right to assume that unionization would be impossible; and absent an executive order like President Kennedy's, it is hard to imagine how any level of rights-consciousness among public workers would have overcome their barriers to organizing and bargaining collectively. The growth of public-sector unions in the 1960s thus parallels the state protection of mass-production organizing in the 1930s. Yet like union growth in the 1930s, the surge of the 1960s was delimited by the same legal changes that made it possible. However much a *private*-sector clerk—or security guard, or trash collector, or administrative assistant—might share the civil servant's sense of declining professional status and interest in collective solutions to restore it, the labor law clearly excluded them from corresponding protections. Thus white-collar unionization never spread beyond the public sector in the 1970s. Instead the next turning point would transform the very segments of the economy that had since the 1930s been central to union's economic position.

4.6 Recession and retrenchment under Reagan

Like the 1940s, the turning point in the early 1980s involved an alignment of political and social forces opposed to labor unions. Unlike the 1940s, the impact on labor's numbers was clear and immediate: labor-union density in the early 1980s fell at its steepest rate since 1922 (Troy 1965; Troy and Shefflin 1985). In many respects the 1980s bookend the 1930s, because it was in the recession years of Ronald Reagan's first term that many institutional gains of the 1930s were undone. The 1980s was

also the last turning point before today, meaning that the changes wrought in those years are the most immediately relevant.

It is important though to specify what made the early 1980s a turning point for labor. The sharp drop in union density between 1981 and 1983 has been well documented (Troy 1990; Farber and Western 2001; Hirsch 2008) and stands in sharp contrast to the gains of the 1930s and 1960s, as well as the ambiguous effects of the Taft-Hartley legislation in the 1940s. Ronald Reagan's landslide victory in 1980 (and larger victory in 1984) heralded the most significant political realignment of the post-war era. Yet his administration passed no labor legislation comparable to the NLRA or Taft-Hartley, nor even an executive order. Instead the Reagan administration modified labor policy through a combination of high-profile actions, appointments of anti-labor officials to oversight positions and non-enforcement of existing legislation. In the first half of his term, Reagan fired the striking PATCO workers and authorized permanent strikebreaker replacements (Shostak and Skocik 1986) and appointed several outspoken anti-union lawyers to the National Labor Relations Board (Moe 1987; Cooke and Gautschi 1982; Gross 1995), which then allowed the backlog of outstanding ULP-charge cases to build for several years (Roomkin 1981; Roomkin and Block 1981; Roomkin and Harris 1984). Virtually all contemporary observers took these actions as signs that the Reagan Administration would not intervene if and when employers adopted a harder (and sometimes illegal) line against union organizing (Freeman and Kleiner 1990).

Just as the Roosevelt and Kennedy Administrations' legal initiatives did not start new union organizing but rather legitimated it and extended its range of acceptable targets, the Reagan Administration's actions built on and encouraged employer trends that had begun earlier, in the 1970s (Kochan et al. 1986a). Specifically, the change in the political environment and Reagan's actions encouraged employers to accelerate and become more openly aggressive in promoting a "union-free environ-

ment” in the wake of labor’s failure to win the debate over labor-law reform in 1979 (Mills 1979). Employers in a handful of heavily unionized industries (primarily construction and sanitation) had already created organizations such as the Council on a Union Free Environment with an explicit goal of forming union-free workplaces (Lichtenstein 2002, p. 226–232). The precursor to today’s most powerful business lobby, the Business Roundtable, was formed in the 1970s to support the growth of non-union industrial construction firms, largely but not exclusively to compete with union contractors servicing the petrochemical industry (cite). Firms in these industries pioneered the practice of “double-breasting,” of creating non-union affiliates and avoiding unionization of new establishments while continuing to deal with unions in older workplaces (Kochan et al. 1986b). Far more common though were the union-avoidance strategies of firms in industries that had largely remained un-unionized in the 1950s and 1960s, such as electronics. Until the 1970s most such firms adopted new benefits for their employees as unions won them elsewhere (Slichter et al. 1960), but in the 1970s firms like Polaroid, Monsanto, IBM and Delta Airlines began adopting new employment practices such as employee-participation schemes and quality circles (Foulkes 1980) that were instead increasingly adopted by unionized firms in their new establishments (Kochan et al. 1984, 1986a). Most such employers that had dealt with unions in at least part of their workforce had maintained a public commitment to stable management-union relations while working quietly to keep unions out of new operations. With the failure of labor-law reform under Carter (Mills 1979) and particularly with Reagan’s election, though, many came out publicly in favor of establishing “union-free” workplaces.

Yet explicit de-unionization efforts remained relatively rare in the 1980s. The legal protections that the NLRA provided established unions remained in effect, and though the number of ULP charges against employers exploded during these years (Flanagan 1989, 2005), employers still nominally had to petition the NLRB for de-

certification elections in order to banish a union from a given establishment (Though see Geoghegan (1991) on the use of shell subsidiaries to cancel existing contracts). Instead, the sharp decline in union density in the early 1980s can be decomposed into three components: relatively large declines in employment in industries with high union density (Troy 1990), a sharp decline in the amount of new union organizing (Chaison and Dhavale 1990b; Farber and Western 2000) and increasing difficulty in organizing new bargaining units even in traditionally heavily unionized industries (Kochan et al. 1986b).

Organizational sociologists have theorized that one of the mechanisms by which an established institution might be de-institutionalized is through *mutability*: “Reliable reproduction in the face of stochastic change is... central to the concept of the institution: ‘institutions are those social patterns that, when chronically reproduced, owe their survival to relatively self-activating social processes’” (Jepperson (1991) quoted in Clemens and Cook (1999)). This theory lacks empirical examples (largely because organizational birth has been relatively un-problematized in comparison to organizational survival (Carroll and Hannan 2000)), but the labor movement in the wake of the Reagan Administration’s policies might be a fruitful test case. By allowing an increasing number of establishments in unionized industries to be born non-union, the policy changes of the early 1980s helped to decouple the idea of union membership even from what remained the movement’s heart, the mass-production industries. Thus for example meatpacking firms like IBP were able, starting in the early 1980s, to move quickly out of urban centers and into rural areas closer to feed-lots, where they proceeded to rebuff all attempts at organizing by the United Food and Commercial Workers. Wages and safety conditions in meatpacking, which unionization had raised between the 1940s and the 1960s, quickly collapsed; today the Occupational Safety and Health Administration rates the industry as one of the most dangerous in the country and one of the lowest paid. Automobile-parts suppliers and

other machine-tool-based industries were similarly buffeted by the closing down of unionized establishments and the reopening of non-union ones (Bowles et al. 1984; Dertouzos et al. 1989). This is not to imply that all the failures of union organizing in the 1980s should be attributed to employer opposition. Many employees genuinely preferred the employment practices, including team work and employee participation, of non-union firms, and the unions' relative abandonment of organizing makes the level of employer resistance in many cases moot. The point rather is that events in the early 1980s conspired to promote the idea that multiple industries that traditionally had been synonymous with unionization could and should operate union-free. The effect of such a shift in potential members' evaluation of unions is difficult to measure but impossible to dismiss.

The withering both of union density and union organizing has continued over the last quarter-century. A potential bargaining unit's likelihood of completing a union organizing drive is even lower today than it was in the early 1980s, and direct employer resistance still constitutes a non-trivial portion of the difficulties that employees face (Ferguson 2008). More generally, today's weakened unions must contend with a new employment cohort that is unfamiliar both with unionization and any particular history of worker organization in their own industries. The turning point of the early 1980s has deprived unions even of the ability to point to their past triumphs and established track records in industries in order to recruit new members. Decline thus fosters deinstitutionalization in a reinforcing cycle.

4.7 Turning points and counterfactuals

We have identified four turning points in U.S. labor since the Great Depression. In discussing each, we have theorized that a combination of a national political realignment, significant legislative change and redefinition of unions to include or exclude

some segment of the workforce combined to produce large changes in union density. In practice, only the 1930s fit this schema exactly. The Taft-Hartley Act may have changed the pool of *potential* members, but its immediate impact on density is less clear. Kennedy's election, during an era of relative bipartisanship, does not by itself constitute a significant political realignment. And while the Reagan administration ignored or reinterpreted several components of American labor legislation, it produced neither new laws nor executive orders. That which all four episodes *did* have in common was a vigorous debate about the place of labor unions in contemporary society, and in particular some shift in the popular perception of whether a particular group of workers should be able to unionize. Freeman (1998) made a similar argument about spurts in union growth: "The key condition for growth spurts rather than gradual growth of unionization is *confrontation over the union institution*" (277, emphasis added). By framing the 1940s and 1980s in similar terms, we suggest that the same condition holds for sudden declines as well.

The danger of considering what four turning points have in common is selection on the dependent variable. It is therefore worth considering other cases where one or more of the three components we have described were present and yet where a national realignment did *not* occur. Despite the importance of economic crises in the 1930s and 1980s, economic crisis alone has not produced large swings in labor-union membership. The severe recessions of 1958 and 1973 for example left no mark on union density, and both 1947 and 1961 were periods of growth. While political realignments are often the product of economic performance, it appears that trade unionism has been more affected by the realignments than by the economic conditions that produced them. Nor have legal changes by themselves been sufficient triggers. The Senate McClellan Committee's investigations into labor-union corruption in the 1950s for example led directly to the Labor-Management Reporting and Disclosure Act of 1959 and did much to erode organized labor's public image. Yet with no

political support like that given to anti-union forces in 1947 and 1981, the act's effects were minimal.

Changes in union strategies or changes to the law have not produced significant change absent political realignments. The late 1960s and early 1970s saw a wave of large strikes by otherwise well-paid union members over the terms and conditions of their daily work. The United Auto Workers had led the strike wave in 1964 with protests against their "gold-plated sweatshops" (Miller (1964), quoted in Lichtenstein (1995)), and another large strike by workers in the new, state-of-the-art General Motors plant in Lordstown, Ohio in 1972 produced a flurry of popular and scholarly interest in "humanizing" manufacturing work (O'Toole 1974; Cummings and Malloy 1977; Barbash 1980). In the same period the federal government adopted the Occupational Health and Safety Act, partly in response to these protests. Yet despite a tight labor market, the unions were unable to define an explicit role for unions in the implementation of OSHA or more generally in the quality of work life. Part of their difficulty lay with the Nixon Administration, which continued many of the economic and social policies of its Democratic predecessors and which owed its election not to constituencies demanding change but rather to its explicit commitment to preserve the status quo. Organized labor faced similar difficulties in the early years of the Clinton Administration. While Clinton was elected with strong labor support, rather than propose labor-law reforms on its own the administration chose to set up a national commission to assess the current state of the law and offer recommendations for reforming it. By the time the commission's recommendations were forthcoming, the Republicans had won majority control in Congress and the political window of opportunity for enacting changes had closed (Kochan 1995).

Where there was political realignment, an absence of new union strategies helped undermine legislative reform. Organized labor waged a major effort to reform the NLRA under the Carter Administration. The proposed Labor Law Reform Act of

1977 was less ambitious than the contemporary EFCA, and in one sense the political climate was even more favorable: the Congress elected in the wake of the Watergate scandal was one of the more liberal in American history. Despite the favorable legislature and President Carter's eventual support, no corresponding debate about the scope or purpose of unionization existed. Though labor strategists had originally crafted the act's provisions to counter the union-avoidance tactics primarily of southern employers, the AFL-CIO as a whole took pains to argue that the act would not transform the status quo in labor relations. "President Carter's proposals would not change one iota the rules and regulations governing labor-management relations," then Secretary-Treasurer of the AFL-CIO Lane Kirkland wrote. "Employers who obey the law as it stands today have nothing to fear from [the act]" (Mills 1979, p. 96). With the unions trying to downplay the transformative potential of legal reform, business opponents successfully cast the proposed legislation as a special-interest issue, and the bill died in the Senate one vote short of the three-fifths' majority needed to break a filibuster and secure passage. (Shabecoff 1978).⁶ The AFL-CIO made no efforts to cast reform as *extending* unionization's benefits to a new class of employees rather than securing benefits for an established interest group (Botsch 1980). The irony in labor's actions is that, as we have seen, what had been the hostile and often illegal practices of a minority of employers became far more widespread after Reagan's election the following year.

Turning points for American labor, in short, have not emerged directly from economic events, nor have they been the direct result of changes to government policy. Instead, the most substantial swings in labor-union density and growth have occurred when one of the political parties used new-found power to intervene in an existing debate over the place of unions in society. That debate need not have been titanic.

⁶Perhaps the most intriguing element of this "failed" turning point was that most of the obstacles to organizing that the act was meant to surmount were deployed by corporations in the then-and-still non-union southern states, where a similar effort to extend workers' nominal rights of association and collective bargaining had foundered three decades earlier (Griffith 1988).

The number of strikes by public-sector unions before Kennedy issued Executive Order 10988 for example was of comparable size to those held by white-collar unions in the 1940s (Edwards 1981), and had no executive order been forthcoming, that era's arguments about unionizing public-sector workers might have been forgotten as those a generation earlier were (Sturmthal 1966). Without such a debate, though, American labor since the Second World War has consistently been unable to link the benefits that legal changes would bring to labor as an interest group to the benefits that such changes would bring to society as a whole.

4.8 A modern turning point?

We conclude by speculating whether or not American labor is once again poised to experience a turning point. Our summary assessment is that one of the three legs of the stool required to achieve a turning point is in place today and the second is currently under debate, but the third is more visible in academics' and activists' writings than on the ground.

The shift in political power has occurred. The Democratic Party now controls the White House and has larger majorities in the Congress than Republicans enjoyed during their twelve years in power. Moreover, the era of privileging the market as the social engine of progress with government playing at best a limited role appears to be, by necessity, giving way to a more activist governmental role. The Obama administration has made some pronouncements about the need to reduce income inequality and rebuild the middle class, and to make employers more accountable for the treatment of their employees. But as yet the government has offered few details about the role that unions can or should play in its plans.

The debate over labor-law reform is well underway. Passage of the EFCA is the labor movement's top political priority. The administration has pronounced its

support for EFCA but where it fits in its long list of priorities and demands for action remains to be seen. If EFCA were to pass, it would make forming unions substantially easier. But EFCA alone would not constitute a redefinition of the appropriate targets for union membership.

The third leg of the stool is harder to discern. The labor movement has said little about its post-EFCA strategies. For their part, workers are as interested in having voice and respect at their workplaces as they have been for several decades and appear to be more interested than in the past in joining a union (Kochan 1979; Freeman and Rogers 1999; Freeman 2007). Thus there appears to be widespread pent-up demand for representation, but translating this demand into union membership even in a post-EFCA environment will require innovations in organizing and representation strategies. We can only speculate on whether such innovations will be forthcoming from within the existing labor movement, from social forces outside the labor movement, or from some combination of the two, and on what forms such innovations might take. A number of ideas have been put forward in recent years and some budding steps toward new approaches are underway. They include, for example, building stronger coalitions between unions and immigrant and community groups; making better use of the internet and other modern communications technologies to mobilize new groups of workers; providing life-time memberships to individuals and/or using minority-representation models rather than relying on the procedures embedded in labor law that require a majority of workers in a given bargaining unit to agree to be represented in order to gain any new union members; providing a range of services needed to encourage workers in general and young workers in particular to union membership as they move across jobs and through their careers; and partnering with willing employers to give workers more direct voice and involvement in affairs at their worksites.

Whether these or other innovations will be forthcoming remains to be seen. If our

analysis of the historical record is correct, these or some other innovations in union strategy will be necessary to translate the changes in the political environment and the enactment of a reformed labor law into a significant turning point for American labor.

Appendix A

Method for matching representation cases to ULP charges

A.1 Structure of the records

The NLRB's fundamental unit of record-keeping is the case. If you file a petition to hold an election, the NLRB opens a new representation case record (I will call these "R-cases"). If you file a ULP charge, the NLRB opens a new complaint case record ("C-cases"). The complication of this record-keeping structure is that the unit of interest in this study is the union organizing drive. Every drive has at least one R-case record and may have one or more C-case records. Looking at the NLRB's case records, though, is like pulling all of the receipts from the dumpster outside of a large apartment building. You cannot make inferences about the residents' shopping patterns until you figure out which receipts belong to which residents. Similarly, we cannot make inferences about ULP charges in organizing drives until we figure out which C-cases go to which R-cases, if any. We need a way to match the two types of

cases.

In the past and after 2007, the AFL-CIO relied on the employer's address to do this matching. When the NLRB debuted out its new database, CATS, in 1999, however, it decided that employer's address would no longer be discoverable, even through a Freedom of Information Act request.

A.1.1 “Backing out” ULPs: an outer join

Since I lacked a unique matching identifier for these data, I had to perform an outer join on the data. An outer join involves taking some *group* identifier present in each dataset and creating all possible combinations of records that share the group identifier, i.e., the Cartesian product of the datasets.

Picture that we have two datasets, one of R-cases and one of C-cases. Each dataset has eight records. Each record has a unique identifier for the record and a group ID that may or may not be unique. That group ID may appear in one or both of the datasets. To be more specific, assume that the R-case dataset looks like this:

R-case	GroupID
0	2
1	3
2	3
3	4
4	5
5	5
6	5
7	6

And assume the C-case dataset looks like this:

C-case	GroupID
1	6
2	5
3	5
4	5
5	4
6	3
7	3
8	1

If we were to perform an outer join on these two datasets based on the group ID, the resulting dataset would look like this:

R-case	GroupID	C-case
.	1	8
0	2	.
1	3	7
1	3	6
2	3	7
2	3	6
3	4	5
4	5	4
4	5	3
4	5	2
5	5	4
5	5	3
5	5	2
6	5	4
6	5	3
6	5	2
7	6	1

Some things should be noted about this procedure. First, one of the C-cases (8) had a group ID that was not present in the R-case data; thus it has no matches at all. Similarly, one R-case (0) has no matches in the C-case data. Second, Two of the R-cases (3 and 7) had group IDs that uniquely matched records in the C-cases (5 and 1, respectively). In these cases, the outer join will produce one record. Third, in those cases where n R-cases and n C-cases had the same group ID, the outer join produced $n \times n$ records—every pairwise combination possible.

I created a group ID for each R-case and each C-case based on the Metropolitan Statistical Area (MSA) and six-digit industry (per the 2002 NAICS codes) noted for

each record. I then performed an outer join based on that group ID. In other words, I formed every pairwise combination of R-cases and C-cases in a given six-digit industry in a given city during the period. My goal was to “back out” the organizing drives that had ULP charges. I would create all those combinations and then strike out the combinations that did not make sense, based on criteria I describe below. The ones that remained after the strikeouts would be the ones I would assume had ULP charges.

A.1.2 Firm versus soft matches

Before I started striking out cases, I first classified most of the cases as firm yesses and noes, where “yes” and “no” refer to whether a given R-case had a ULP charge associated with it.

Many of the R-cases were like (0) in my example above—they had no matching C-cases in their city and industry. I classified these R-cases as firm noes. Of the 22,382 records that I began the analysis with, 12,151 (54.3 percent) were firm noes.

It would be tempting to assume that R-cases like (3) and (7) above, those with single C-case matches, were firm yesses. This is wrong, though. That single C-case could have been filed by an existing unit in the same city and industry. I needed another method for looking for firm yesses. I looked for cases where there was *documentary evidence* of matching; i.e., where either the R- or the C-case mentioned the other explicitly. I looked for six things:

1. If the R-case mentions one of the following:
 - (a) The ID of a C-case, which is the same as the ID of the C-case shown as matched.
 - (b) The ID of a C-case cited in a blocking order, which is the same as the ID of the C-case shown as matched.
 - (c) The ID of a C-case cited in a request to proceed, which is the same as the ID of the C-case shown as matched.

- (d) The ID of a C-case cited in a request for a 10(j) injunction, which is the same as the ID of the C-case shown as matched.

2. If the C-case mentions one of the following:

- (a) The ID of a R-case, which was the same as the ID of the R-case shown as matched.
- (b) The name and unit code of the case (i.e., of the employer and the NLRB's tentative bargaining-unit designation), which was the same as the name and unit code of the R-case shown as matched.

Under these six conditions, where I had documentary evidence of a specific representation case citing a specific complaint case or vice versa, I assumed that the match was a firm yes. Of the 22,382 cases that I began the analysis with, 2,881 (12.9 percent) were firm yesses.

Marking 15,032 records as firm yesses and noes took care of 67.2 percent of the records. There remained 7,350 R-cases that had one or more C-cases in the same city and industry but that lacked documentary proof that they were matched. To these I now turned.

A.1.3 Backing out soft matches

I used many dates to evaluate matches. This is because they were widely available. The NLRB's CATS database either automatically enters dates for events (such as the opening or closing of a case) or requires the user to input them (such as the date of an election).¹ Some combinations of dates were extremely unlikely to happen in the cases I was looking for. For example, if a C-case was closed before the R-case was filed, then even though the two cases were in the same city and industry, that ULP charge probably was not associated with that organizing drive. I looked for the following things:²

¹These user-entered fields can still be blank, because the user can note that a date is at present unknown.

²For several of these, note that I was looking for *pre-election* ULP charges. Subsequent charges, as for example relating to the conduct of the election, are picked up in the later-stage regression

1. The closing date for the R-case is before the filing date of the C-case.
2. The election date for the R-case is before the filing date of the C-case.
3. The date a complaint (the NLRB's determination of fault) is mentioned being issued in the R-case is before the filing date of the C-case.
4. The date a blocking order was issued in the C-case is before the filing date of the R-case.
5. The date a complaint was issued in the C-case is before the filing date of the R-case.
6. The date an unblocking order was issued in the C-case is before the filing date of the R-case.
7. The date that of a hearing or decision by the regional director or the Board occurred is before the filing date of the R-case.

My reasoning was that if the R-case and C-case did not overlap in time, then the one was probably not associated with the other. These seven rules together struck out all of the potentially matching C-cases for 4,932 of the 7,350 undetermined R-cases. Continuing with the metaphor, I will call these records soft noes. This left 2,418 R-cases undetermined.

Next I checked the type of ULP charge mentioned in the C-case. Some types of ULP charges can only be filed by established bargaining units and thus would not count as matches here. Ruling out such matches moved 428 additional undetermined cases to the soft noes column, leaving 1,990.

I then lexicographically sorted the remaining undetermined cases. Such a sort is very useful for finding duplicated records. I looked for two types of duplicates: trivial, defined as two records with the same R-case or C-case ID where the only difference is that one record has information in a field left blank in the other; and non-trivial, where otherwise identical records conflicted in one field—e.g., one had the election date as 08/15/02 and the other had the election date as 08/21/02. I assumed that

pertaining to reaching a first contract.

the 567 trivial duplicates were trivial³ and combed them out. I then resolved the 95 non-trivial duplicates by hand.

All told, I coded 5,594 of the 7,350 undetermined matches as soft noes. This left 1,756 potential R-case/C-case matches that happened in the same city, in the same industry, at the same time, in units with similar numbers of workers, with the “right” type of ULP charge and with no other discrepancies that I could find in the available information. I coded these as soft yesses.

A.2 Evaluating the methodology

I dislike using words like “firm” and “soft” here. Those so-called soft matches are the best I, or I think anyone, could do with the available data. I am nonetheless drawing the distinction because I can gain some leverage from it to test what the potential sources of bias in this matching method may be. Specifically, I can contrast summary statistics for the firm and soft matches to see how they differ from one another, and I can compare regression results for just the firm matches with results for the full sample. I discuss both of these tests below.

A.2.1 Distribution of firm and soft matches

Table A.1 shows the 2×2 breakdown of whether I assumed a case had a ULP charge associated with it and whether it was a firm yes or no. The bulk of the records, and the bulk of both the yesses and the noes, were firm assignments. In table A.1, the upper-right numbers in each cell show the cell’s within-row marginal probability (i.e., summing them across the row yields one) and the lower-left numbers show the cell’s within-column marginal probability (i.e., summing them down the column yields

³As mentioned in the paper, these duplicates could be created by the database itself. Sometimes when the user updated a record the database would save the changes as a new record rather than overwrite the old record.

Table A.1: Breakdown of ULP charges, by firm and soft matching

	Firm match	Soft match	Total
ULP	2881 (.192)	1756 (.239)	4637 (.207)
No ULP	12151 (.808)	5594 (.761)	17745 (.793)
Total	15032 (.672)	7350 (.328)	22382

Cells show frequency counts. Row marginal probabilities are given in the upper right of each cell, and column marginal probabilities are given in the lower left.

one).

A quirk of this table is that the share of firm and soft cases ruled as yesses is quite similar—about a fifth in each case. This means nothing.

Subsequent research (forthcoming) using slightly different samples of NLRB case data have found higher rates of ULP charges associated with representation cases—in some instances substantially higher. This begs the question: whence the discrepancy? I will mention three possibilities; there could be more. First, I matched these cases based on comparing date fields and similar information in the two cases. If one of the two records lacked one of the date fields, then I could make no such comparison. In those cases I erred toward assuming that the case did *not* have a ULP charge. Second, if organizers filed a ULP charge during the card drive and then filed an election petition while the C-case was still open, my procedure would almost always code that case as a no. If I could link the employer more easily, then I could investigate whether some such cases should instead be yesses. Third, any errors (or empty fields) in the MSA or 6-digit industry code would affect my initial outer join.

In these and other scenarios, I would have coded some records that really had ULP charges as not having them. The fundamental point is that, because I was backing out matches from imperfect data, I wanted to be extremely conservative in

my assumptions. This was an intellectual and a political decision. Intellectually, I wanted to avoid sources of bias that would overstate my findings. Politically, I wanted if anything to undercount cases that had ULP charges, lest I be accused of cherry-picking non-ULP cases so as to make the effects of ULPs seem larger than they are.

A.2.2 Measurement-error bias

What are the implications of this approach for my results? Since I have some firm yesses and noes, I can see how they differ from the soft yesses and noes. I ran a battery of t -tests and χ^2 -tests to compare the firm and soft yesses and the firm and soft noes and to contrast the firm yesses and noes with the soft yesses and noes. That is to say, I tested for differences between the cells of the 2×2 table shown above. For the sake of space, I will summarize those test results by saying that the differences between the soft yesses and noes are smaller than between the firm yesses and noes, but that the soft yesses still look more like the firm yesses than like the soft noes. In other words, there is some measurement error in assignment, but not a crippling amount.

Such measurement error should bias the estimated coefficients in the regression results toward zero. In other words, the “real” coefficients on ULP charges should be *even larger*—even more negative, in this instance. To see whether this was so, I replicated the paper’s regressions on the subsample of records that were firm yesses or noes. Table A.2 shows those results (I have omitted other coefficients for space). As expected, considering only the firmly classified cases produces even larger coefficients that remain significant. In fact, the coefficient of 8(a)(3) charges in holding an election, which was not significant in the full sample, is significant in the limited sample.

Table A.2: Test for measurement-error bias: comparison of estimated ULP-charge coefficients using full and limited samples

	Election held		Election won		Contract reached	
	Full	Limited	Full	Limited	Full	Limited
8(a)(1) charge filed	- <i>.54</i>	- <i>.74</i>	-.34	-.34		
8(a)(3) charge filed	-. <i>13</i>	-. <i>28</i>	<i>.03</i>	-. <i>17</i>		
Other charge filed	-. <i>71</i>	-. <i>87</i>	-. <i>04</i>	-. <i>14</i>		
ULP during negotiations					-1.66	-1.90
8(a)(1) before election					-.44	-.75
8(a)(3) before election					-. <i>22</i>	-. <i>30</i>
Other before election					<i>.27</i>	<i>.15</i>
8(a)(1) before, ULP during					-1.91	-2.41
8(a)(3) before, ULP during					-1.94	-2.47
Other before, ULP during					-1.48	-1.93
N	14424	8855	9593	5885	2499	1427

The coefficients reported for the full sample are drawn from an earlier draft of chapter 2 of this thesis: John-Paul Ferguson, “The Eyes of the Needles: A Sequential Model of Union Organizing Drives” (MIT-IWER Working Paper, February 2007). The coefficients for the limited sample were produced by rerunning the model on a sub-sample consisting of cases with a firm R-case/C-case match, as described herein. Coefficients in italics were not significant at the .05 level.

A.3 Implications

I close with some thoughts on how this study would relate to others. This study estimates a lower bound on the effect of ULP charges. At each point where I had to make a judgment call about whether to match an organizing drive with a ULP charge, I chose *not* to match them unless there was direct evidence in favor of matching. I chipped away at the undetermined R-cases, trying to reduce the number of cases that I would say had ULP charges just based on my inference.

At each point in that process, I had in mind the potential critic who would accuse me of assigning cases so as to play up the damaging effect of ULP charges. As of spring 2009, it so happens that I am now receiving questions about whether I have played *down* their effect. In a sense, this is a relief.

How do we treat a lower bound? When someone asks us what the effect of a ULP charge is on an organizing drive’s chances of success, we say “we estimate that, on average, a ULP charge is associated with *at least* a 30-percent reduction in the

likelihood..." etc. In the final analysis, then, this appendix boils down to two words:
"at least."

Appendix B

Calculation of Average and Cumulative Effects of Employer ULP Charges

This appendix outlines the sources and calculations of the figures in table 2.6.

Let U be the filing of an unfair labor practice (ULP) charge and \tilde{U} be the absence of a ULP charge against the employer. The types of ULP charges can be specified thus:

- $\iota = 8(a)(1)$ charge before election
- $\iota^m = 8(a)(1)$ charge before election that was found meritorious
- $\zeta = 8(a)(3)$ charge before election
- $\zeta^m = 8(a)(3)$ charge before election that was found meritorious
- $\omega =$ Other charge before election
- $\omega^m =$ Other charge before election that was found meritorious
- $\nu =$ Charge (type unknown) after certification

Thus $\tilde{\iota} = \tilde{\iota}^m = \tilde{\zeta} = \tilde{\zeta}^m = \tilde{\omega} = \tilde{\omega}^m = \tilde{U}$.

B.1 Likelihoods of success

Columns 2–5 of table 2.6 show the likelihood of success at a given stage. The first row, for “No ULP filed,” shows the probability of success conditional on no pre-election ULP charge being filed. We can define these figures as $P_{B|\bar{U}}$, $P_{C|\bar{U}}$, $P_{D|\bar{U}}$ and $P_{D|\nu,\bar{U}}$, respectively. The first three of these figures can be calculated from table 2.1. The fourth, the probability of reaching a contract given no pre-election ULP charge and a subsequent ULP charge, is defined as the probability given no pre-election ULP charge and no subsequent ULP charge times the effect of a subsequent charge: $P_{d|\nu,\bar{U}} = P_{d|\bar{U}}e^{\hat{\delta}_{\nu,\bar{U}}}$.

The same logic is used to calculate the other figures in columns 2–5. For example, the likelihood of holding an election given a pre-election 8(a)(1) charge, $P_{b|\nu}$, is defined as $P_{b|\bar{e}}e^{\hat{\beta}_{\nu}}$. The values for $e^{\hat{\beta}_{\nu}}$, $e^{\hat{\gamma}_{\nu}}$, $e^{\hat{\beta}_{\zeta}}$ and the other relevant variables are simply the odds ratios on the appropriate ULP charges in table 2.4. Thus for example the predicted success of holding an election given a meritorious “other” pre-election ULP charge is $.674 \times .488 = .329$.

B.2 Average effects

The average likelihood of (for example) holding an election given a ULP charge is a weighted sum of the likelihoods of the six types of ULP charges:

$$P_{b|U} = P_{b|\nu}P_{\nu|U,b} + P_{b|\nu^m}P_{\nu^m|U,b} + P_{b|\zeta}P_{\zeta|U,b} + P_{b|\zeta^m}P_{\zeta^m|U,b} + P_{b|\omega}P_{\omega|U,b} + P_{b|\omega^m}P_{\omega^m|U,b}$$

The b in the subscripts above indicates that these probabilities are the relative frequencies of the types of ULP charges in the sample in stage b . The shares of ULP charges across the three stages (collapsed for the moment over merit), used in calculating the average likelihood, are as follows:

Type	b	c	d
$P_{\iota U}$.526	.537	.515
$P_{\zeta U}$.207	.215	.228
$P_{\omega U}$.267	.248	.257

Row 8 of table 2.6 reports the average likelihoods.

The average effect is then defined as the percentage change in likelihood given a ULP charge. Continuing with stage b , the average effect is $\frac{.491-.674}{.674} = -.272$, or minus 27 percent.

B.3 Cumulative effects

For most of the explanation below I will use ι . The equations are identical for the other types of ULP charges.

B.3.1 Holding an election

Following the main text, let P_b represent the probability of success in holding an election. We can then define $\Delta_{b|\iota}$ as the difference in the probability of holding an election based on whether there was an 8(a)(1) charge:

$$\Delta_{b|\iota} = P_{b|\bar{\iota}} - P_{b|\iota}$$

As above, $P_{b|\iota} = P_{b|\bar{\iota}}e^{\hat{\beta}\iota}$. Rearranging terms gives

$$\Delta_{b|\iota} = (1 - e^{\hat{\beta}\iota})P_{b|\bar{\iota}}$$

Similarly,

$$\begin{aligned}\Delta_{b|\zeta} &= (1 - e^{\hat{\beta}_\zeta})P_{b|\bar{\zeta}} \\ \Delta_{b|\omega} &= (1 - e^{\hat{\beta}_\omega})P_{b|\bar{\omega}}\end{aligned}$$

B.3.2 Winning an election

Let P_c represent the probability of success in winning an election. Then, following the equation for P(C) in section 2.2,

$$\begin{aligned}\Delta_{c|\iota} &= P_{c|\bar{\iota}}P_{b|\bar{\iota}} - P_{c|\iota}P_{b|\iota} \\ &= P_{c|\bar{\iota}}P_{b|\bar{\iota}} - P_{c|\bar{\iota}}e^{\hat{\gamma}_\iota}P_{b|\bar{\iota}}e^{\hat{\beta}_\iota} \\ &= (1 - e^{\hat{\gamma}_\iota}e^{\hat{\beta}_\iota})P_{c|\bar{\iota}}P_{b|\bar{\iota}}\end{aligned}$$

As above, the formulae for $\Delta_{c|\zeta}$ and $\Delta_{c|\omega}$ are identical.

B.3.3 Reaching a contract

This stage is complicated by the presence of subsequent ULP charges, denoted ν . The effects of a pre-election ULP charge must be weighted by the occurrence with subsequent ULP charges:

$$\begin{aligned}P_{d|\bar{\iota}} &= P_{d|\bar{\nu},\bar{\iota}}P_{\bar{\nu}|\bar{\iota}} + P_{d|\nu,\bar{\iota}}P_{\nu|\bar{\iota}} \\ &= P_{d|\bar{\nu},\bar{\iota}}P_{\bar{\nu}|\bar{\iota}} + P_{d|\bar{\nu},\bar{\iota}}e^{\hat{\delta}_{\nu,\bar{\iota}}}P_{\nu|\bar{\iota}} \\ &= P_{d|\bar{\nu},\bar{\iota}}\left[P_{\bar{\nu}|\bar{\iota}} + e^{\hat{\delta}_{\nu,\bar{\iota}}}P_{\nu|\bar{\iota}}\right] \\ P_{d|\iota} &= P_{d|\bar{\nu},\iota}P_{\bar{\nu}|\iota} + P_{d|\nu,\iota}P_{\nu|\iota} \\ &= P_{d|\bar{\nu},\iota}e^{\hat{\delta}_{\nu,\iota}}P_{\bar{\nu}|\iota} + P_{d|\bar{\nu},\iota}e^{\hat{\delta}_{\nu,\iota}}P_{\nu|\iota} \\ &= P_{d|\bar{\nu},\iota}\left[e^{\hat{\delta}_{\nu,\iota}}P_{\bar{\nu}|\iota} + e^{\hat{\delta}_{\nu,\iota}}P_{\nu|\iota}\right]\end{aligned}$$

These values go into the calculation of $\Delta_{d|\iota}$:

$$\begin{aligned}
\Delta_{d|\iota} &= P_{d|\bar{i}}P_{c|\bar{i}}P_{b|\bar{i}} - P_{d|\iota}P_{c|\iota}P_{b|\iota} \\
&= P_{d|\bar{\nu},\bar{i}} \left[P_{\bar{\nu}|\bar{i}} + e^{\hat{\delta}_{\nu,\bar{i}}} P_{\nu|\bar{i}} \right] P_{c|\bar{i}}P_{b|\bar{i}} - P_{d|\bar{\nu},\bar{i}} \left[e^{\hat{\delta}_{\bar{\nu},\iota}} P_{\bar{\nu}|\iota} + e^{\hat{\delta}_{\nu,\iota}} P_{\nu|\iota} \right] P_{c|\bar{i}}e^{\hat{\gamma}_{\iota}} P_{b|\bar{i}}e^{\hat{\beta}_{\iota}} \\
&= P_{d|\bar{\nu},\bar{i}}P_{c|\bar{i}}P_{b|\bar{i}} \left[\left(P_{\bar{\nu}|\bar{i}} + e^{\hat{\delta}_{\nu,\bar{i}}} P_{\nu|\bar{i}} \right) - \left(e^{\hat{\delta}_{\bar{\nu},\iota}} P_{\bar{\nu}|\iota} + e^{\hat{\delta}_{\nu,\iota}} P_{\nu|\iota} \right) e^{\hat{\gamma}_{\iota}} e^{\hat{\beta}_{\iota}} \right]
\end{aligned}$$

The exponentiated terms are all presented as odds ratios in table 3. The first three probabilities are the the likelihoods of success given no ULP charges, shown in columns 2-4 of row 1. The other probabilities (including those for ζ and ω , again collapsed over merit) are as follows:

$$\begin{aligned}
P_{\bar{\nu}|\iota} &= .858 \\
P_{\nu|\iota} &= .142 \\
P_{\bar{\nu}|\zeta} &= .848 \\
P_{\nu|\zeta} &= .152 \\
P_{\bar{\nu}|\omega} &= .872 \\
P_{\nu|\omega} &= .128 \\
P_{\nu|\bar{U}} &= .106 \\
P_{\bar{\nu}|U} &= .859 \\
P_{\nu|U} &= .141
\end{aligned}$$

The impact on cumulative likelihood can then be defined as the percentage change in cumulative likelihood given a ULP charge. In the case of an 8(a)(1) charge, the impact on cumulative likelihood is $\frac{.085-.129}{.129} = -.341$, or minus 34 percent.

Finally, the average effect on cumulative likelihood can be calculated as a weighted sum of the other likelihoods, as at any given stage. This, in percentage terms, amounts to a change of minus 30 percent.

Appendix C

A note on mergers

The focus of chapter three is on unions' diversifying by recruiting new members, but mergers are part of the same process and should show the same trends. Mergers are a way for unions both to increase their membership at a stroke and to lay the groundwork for organizing in a new industry, essentially by buying a stake in the unions that have organized there in the past. Figure C-1 shows that the frequency of mergers increased while the total number of unions in the federation steadily declined. The industrial "logic" of mergers also changed. The bulk of mergers in the 1960s and early 1970s involved very small unions bringing at most a few thousand workers into a much larger union in a related field, as when the Glove Workers brought their 3,000 workers into the 290,000-strong Amalgamated Clothing Workers in 1965. The mergers of any size before 1980 involved craft-based unions *within* a single industry uniting to form an industrial union, as for example when several mail unions formed the American Postal Workers Union in 1969 or when several railroad unions joined to form the Transportation-Communications International Union in 1973. Such mergers reinforced industry boundaries as the proper divisions between unions and were thus jurisdiction-preserving. Even the largest merger of the 1970s, the birth of the United Food and Commercial Workers from the Amalgamated Meat Cutter and Butcher

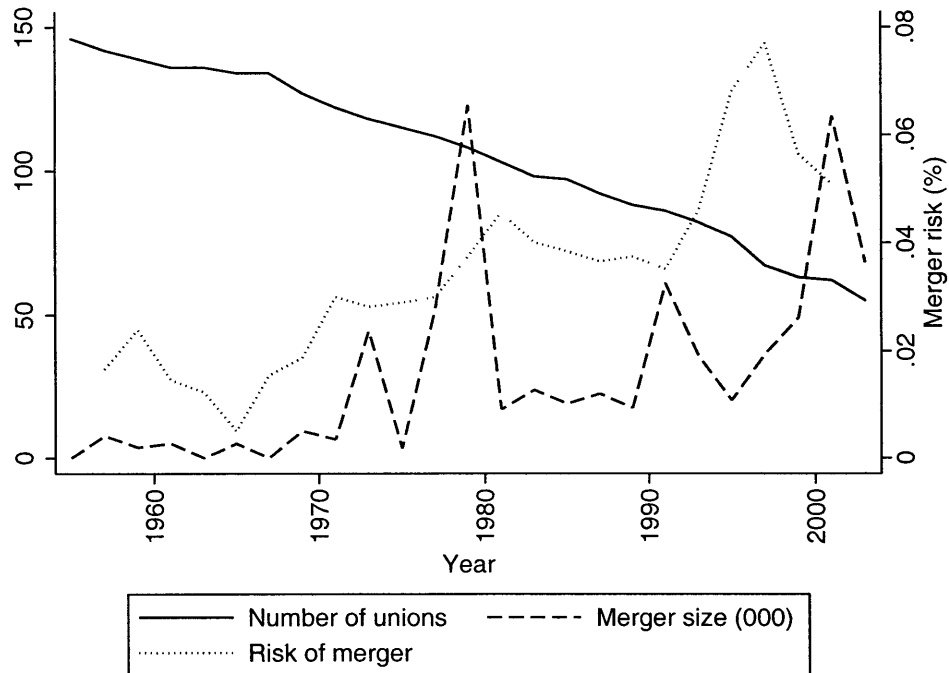


Figure C-1: Number of unions, average merger size and merger risk (6-year moving average), 1957–2003

Workers and the Retail Clerks International Association in 1979, united two trades (butchers and checkout clerks) within grocery stores for purposes of collective bargaining. As manufacturing employment shrank in the early 1980s, mergers across industries sped up, as reflected both in the “risk” of a union merging with another and the size of the unions thus absorbed. Figure C-2, which shows the path of fifteen unions’ entry into the UFCW, demonstrates how mergers became increasingly random through the 1990s, by which point the UFCW was absorbing insurance, textile and chemical workers along with more related unions in retailing and wholesaling.

There were not enough mergers over the last four decades for statistical analyses to have any power. It is suggestive though to note that several unions that largely rejected the idea of overhauling their organizing operations, such as the UFCW, embraced mergers as a growth strategy (Kochan et al. 1984). Mergers thus provided

a second channel by which the unions' own efforts to maintain their membership had the unintended effect of eroding the very jurisdictions that they once relied upon to recruit new members.

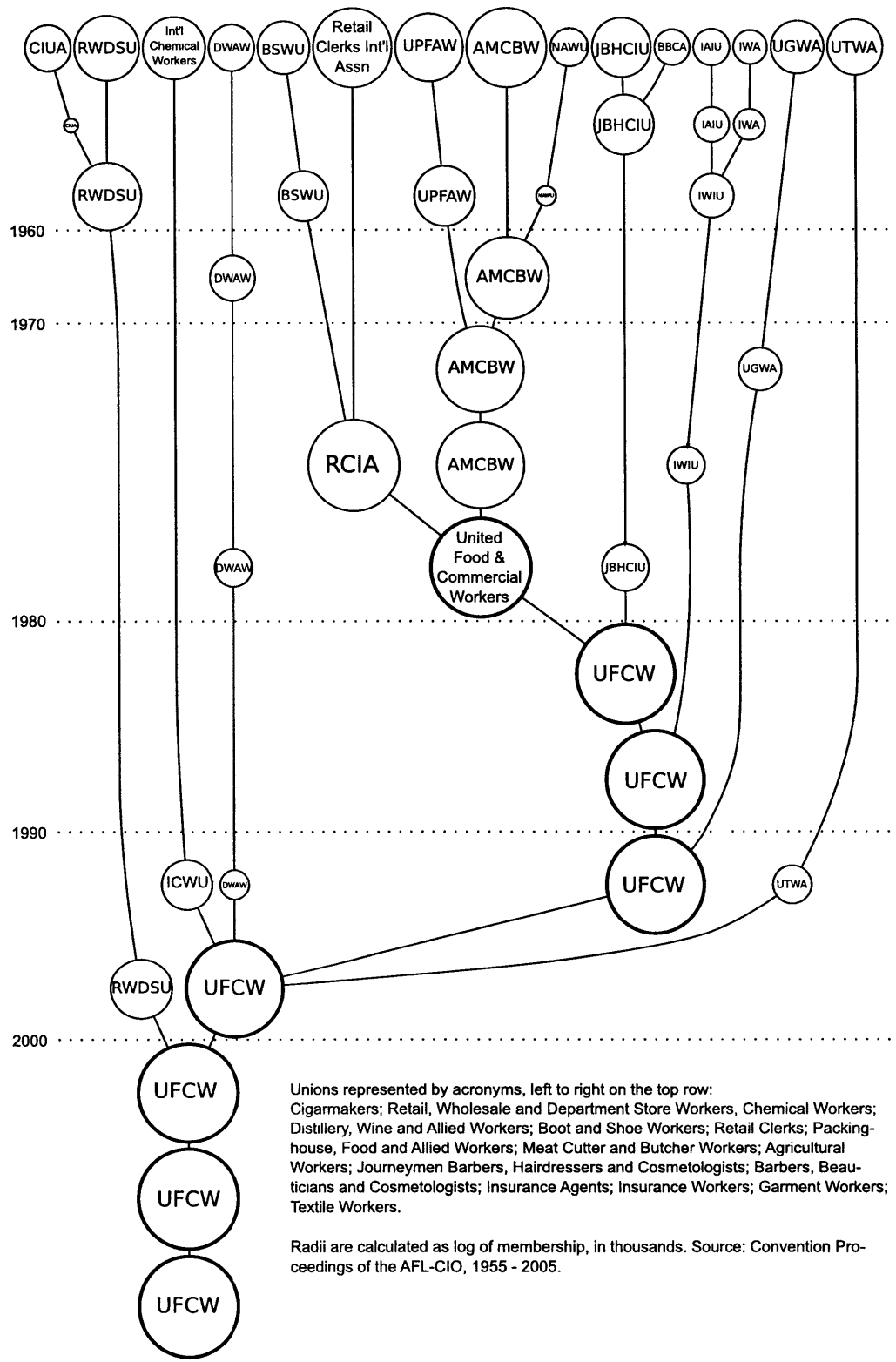


Figure C-2: Mergers in the United Food and Commercial Workers lineage, 1955–2005

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