White House Hand Is Behind Labor's Troubles

by Anita Gallagher

The AFL-CIO's recent divisions, attributed to differences among member unions in organizing strategy, should instead be laid at the feet of those who run the George W. Bush Administration, who pre-planned an unparalleled assault on the labor constituency of the Democratic Party after November 2000. They "hit the ground running" to implement it within Bush's first 50 days.

Later, as planned, this assault on unions' ability to organize, would broaden through the Department of Labor, and its new General Counsel, Eugene Scalia, son of the Constitutional illiterate Antonin Scalia; it would include the imposition of staggering reporting requirements on all union locals, attempts to destroy overtime pay, and periodic boasts of indictments of union officials. When Bush achieved a majority on the five-person National Labor Relations Board, through expiration of the staggered terms of Bill Clinton's three Democratic appointees, the NLRB began to hand down far-reaching decisions in 2004: They denied the right to organize to temporary workers, the handicapped, and graduate students required to teach. Now, with the recent *Guardsmark* case, the NLRB—which was created under the the National Labor Relations Act in 1935, *not* to be neutral, but rather "to encourag[e] the practice and procedure of collective bargaining"—has reached into America's living rooms to uphold employers' prohibitions against employee fraternization *on and off the job.*

As of June, American Rights at Work estimates that more than 10,000 workers had been fired in the first half of 2005 alone, for trying to organize unions.

Of course, labor's organizing prospects could be transformed by U.S. Senate-led legislation to retool the auto industry, re-regulate airlines, and create 20 million new jobs rebuilding America's infrastructure, as Democratic statesman Lyndon LaRouche has proposed in the face of the systemic world financial blowout that is imminent. Labor would immediately rally behind such a Franklin Roosevelt-type plan, if the Senate were to enact it. But labor has been targetted for destruction.

Blitz of Executive Orders

Five of the first eight Executive Orders—13201 through 13205—issued in the first 50 days of George W. Bush's Presidency attacked organized labor, demonstrating the intention of Karl Rove and the other Bush brains. Two orders were so clearly in violation of existing laws, that they were quickly overturned and modified.

Bush's E.O. 13202 proclaimed that no government contractor or agency could any longer require contractors to enter into Project Labor Agreements (PLAs), specifying the pay scale, work rules, and no-work-stoppage agreements on any project. It threatened government action against any contractor who enforced PLAs. On March 9, 2001, Bush issued Executive Order 13205, establishing a Presidential Emergency Board to "investigate" a dispute between Northwest Airlines and its union mechanics. Such an Emergency Board, as the AFL-CIO has pointed out, takes the employer off the hook for any real bargaining for the 60 days provided by the governing Railway Labor Act, and bars the union from action.

Bush convened five more Presidential Emergency Boards through Executive Orders, "investigating" United Airlines and its mechanics, American Airlines and its Flight Attendants, the International Longshore Workers Union on the West Coast, and two against the Southeastern Pennsylvania Transit Authority's (SEPTA) unionized employees. The Clinton policy had been that labor and employers would bargain in good faith and settle their own disputes.

The Bush Administration also issued an Executive Order quietly opening the nation's air traffic control system to privatization, declaring in E.O. 13180, that air traffic control is not "an inherently governmental function," and in 2002, E.O. 13264, that air traffic is a "performance-based organization."

The Bush Administration's attempt to break the American Federation of Government Employees (AFGE)—by exempting the Homeland Security Agency, the Department of Defense, the Transit Safety Adminstration, and more—targetted 850,000 Federal workers. U.S. District Judge Rosemary Collyer finally issued the first "recall" to this attempt on Aug. 15, 2005, ruling that the 160,000 workers of the Department of Homeland Security have a right to collective bargaining, and that White House rules have violated that right.

Department of Labor vs. Labor

The Department of Labor (DOL) has exercised real activism against labor, acting as the driver for an attack on overtime pay, and for Bush's proposed pension overhaul plan, that would cause most companies to abandon "defined-benefit" plans, were it enacted.

In December 2002, the Labor Department announced that it had changed the union reporting forms in effect since 1959 (called LM-2s), requiring far more extensive reporting, to "help union members . . . detect financial mismanagement and misconduct by union officials." The same press release boasts, "U.S. Labor Department investigations of union financial fraud result in an average of 11 criminal convictions a month, with a total of more than 640 convictions in the last five years."

Approximately 30,000 unions nationwide, representing private and Federal employees, must file annual LM-2 forms.

EIRNS/Stuart Lewis SEIU

AFL-CIO President John Sweeney (left) and SEIU President Andy Stern. The split between them is the fault of the Bush Administration's assault on organized labor since the 2000 elections.

Labor officials have told *EIR* that officers must also file LM-30 forms, which report every transaction of $25 or more that could be construed as a contribution to the union official or his family, by any entity doing business with the union. Other union officers submit forms detailing their activities every hour of the day. AFL-CIO President John Sweeney estimates that the Labor Department's new reporting requirements will cost labor unions $1 billion a year, necessitating the hiring of armies of accountants.

Halliburton and its officers suffer no such oversight requirement.

NLRB and the Right to Organize

The NLRB was created by the Wagner Act in 1935 to encourage collective bargaining. Since 2004, when Bush appointees have been in the majority, the NLRB has made a series of shocking decisions—whatever its failings may have been in previous decades—that call into question the right to associate in a union by ruling out temporary workers, the disabled, and other large classes of workers, and threatening the "card check" procedure, increasingly used to win union representation in the face of employer pressure on representation elections.

- In November 2004, the NLRB ruled that temporary workers from an agency cannot join with permanent staff to form a union in the Oakwood Care Center case, reversing a Clinton-era precedent. At the end of 2004, there were 2.5 million temporary employees in the workforce, and the hiring of temps has accounted for nearly one-half the private jobs created between 2002 and the end of 2004, according to Amy Joyce of the *Washington Post.* The decision appears to make these workers non-organizable.
- In September 2004, when disabled and non-disabled janitors of Brevard Achievement Center petitioned for a union representation election, the NLRB upheld Brevard's refusal, ruling that the disabled janitors were not employees because their relationship to their employer was primarily rehabilitative.
- In the case of Brown University's denial of a union representation election to teaching graduate students in July 2004, the NLRB upheld Brown, ruling that the graduate assistants' primary relationship with the University was "educational," and reversing the precedent alllowing unions.

In the Dana Corp. and Metadyne Corp. case, the NLRB is now reviewing whether to throw out the one-year period during which union representation cannot be challenged if a union wins a "card check" procedure (30% of the employees sign cards designating a union and present them immediately). NLRB data show that employers are now winning 45% of secret ballot representation elections, conducted by the NLRB seven weeks after requested, precisely because they have seven weeks to intimidate employees through meetings, scare stories, etc. before the election is held.

In the Harborside Healthcare case, the NLRB invalidated a union election because a health-care supervisor had solicited a union authorization card. The NLRB said that supervisors do not have to make threats or promise benefits for pro-union conduct to be considered objectionable. Furthermore, the NLRB decided to make its ruling retroactive to 2000! Many health-care employees are not even aware that they are classified as supervisors, according to Erin Johansson of American Rights at Work.

The assault on labor is also waxing at the state level by Rove-brained Republican Governors. Missouri Governor Matt Blunt rescinded collective bargaining rights for state employees this year. Indiana Governor Mitch Daniels, the former Bush White House Budget Director, overturned a state executive order that, for the past 15 years, had allowed state workers collective bargaining. Maryland Gov. Robert Ehrlich suspended a 2% pay increase that state employees had negotiated with his Democratic predecessor. All three were copycatting the union-busting of California Governor Arnold Schwarzenegger.

Such conduct is, to put it simply, anti-American. As the National Labor Relations Act, or "Wagner Act," signed by Franklin Roosevelt on July 5, 1935, proclaimed, "It is the policy of the United States to eliminate the cause of certain substantial obstructions to the free flow of commerce . . . by encouraging the practice and procedures of collective bargaining, and by protecting the exercise by workers of full freedom of association."