

Opening Statement of Ranking Member Mark DeSaulnier (CA-10)

Subcommittee on Health, Employment, Labor, and Pensions Hearing

“Protecting Employees’ Rights: Ensuring Fair Elections at the NLRB”

2175 Rayburn House Office Building

Tuesday, May 23, 2023 | 10:15 a.m.

Thank you, Mr. Chairman. I’ll begin on your ending: it is my hope that, in spite of our differences, we can reach some conclusions that will help American workers.

I remain hopeful that we can have a bipartisan agreement that Congress should support workers—nothing is more important. However, I worry, sometimes, that our differences will be used in hearings like this as an opportunity to undermine American workers and labor unions and strip workers of their voice in the workplace.

As a former small business owner in the service industry—I’ve owned and managed restaurants for over 30 years—I know how important my workers were to my success. You’re not successful in the restaurant business as an independent restaurant owner without good relations with your workforce.

As a former union member, I know just how critical labor unions have been, and continue to be, for workers and their families and our economy—not just for members of labor unions, but for workers who benefit from labor unions who are not members.

It was workers in the labor movement who built the middle class by giving employees a voice on the job. And some of our nation’s greatest advances for workers—from the forty-hour work week to the minimum wage—have been made possible by the labor movement.

Today, unions continue to organize and bargain for better working conditions for both union *and* non-union working Americans.

Research consistently shows that, when workers can exercise their right to organize, they have access to livable wages, better benefits, and a safer workplace. Moreover, unions help fuel economic mobility for underserved workers by narrowing the racial wealth gap and gender wage gap, which are—right now—among the highest in the history of our country.

The need for labor unions has come into focus, particularly as workers seek to reject the unfair working conditions that were worsened by the COVID-19 pandemic.

In fact, according to a Gallup poll last August, more than 70 percent of Americans approve of unions—the highest approval rating since 1965. And, in 2021, unions won 76 percent of all representation elections—the highest number of victories in nearly two decades.

Workers—whether they are in a union or not—continue to turn to unions to secure the working conditions they deserve.

Yet, even as we see major unionizing campaigns across the country, organizing workers continue to face a slew of unfair labor practices by employers who take advantage of weaknesses in our federal labor law.

Now, let me comment that that is not all employers. As a former employer, I want the bars—that the Chairman has alluded to—to be fair for good employers as well as not for employers who take advantage of the situation.

Between 2016 and 2021, alone, more than 80 percent of employers conducted anti-union campaigns during union elections, including firing organizers, closing stores, and reducing pay.

Under President Biden, the National Labor Relations Board has taken key steps to hold these bad employers accountable for violating workers' rights by undoing the dangerous precedents set by the Board under the previous administration.

For instance, the Board restored the longstanding process for determining whether a bargaining unit is appropriate—after the Trump administration made it easier for employers to gerrymander elections against the workers in unions.

And the NLRB has ensured that union elections can be conducted by mail-in ballot—after the previous administration suspended more than 100 elections during the pandemic rather than allow the use of mail ballots during the pandemic.

NLRB General Counsel Jennifer Abruzzo is undertaking a historic effort to restore labor law's promise of "full freedom of association." This includes ending the union-busting tactic of captive audience meetings, where employers force workers to listen to anti-union propaganda or else face discipline and termination.

But the responsibility of protecting workers' rights also falls on us—Congress. That is why we must pass the *Protecting the Right to Organize Act*, or the *PRO Act*, which would secure the most significant upgrade to U.S. labor law in nearly 80 years—to help good employers and good employees and to punish unscrupulous employers who take advantage of the weakness, all too often, in our system for the workforce.

This *PRO Act*:

- Finally sets penalties for bad employers who violate workers' rights;
- Requires workers whose rights have been violated to be temporarily reinstated while their cases are pending; and,
- Ensures unions can collect "fair share" dues from all workers who are obligated to be represented.

We must also continue working to address the severe underfunding that has left the NLRB without the resources it needs to respond to the surge in worker organizing.

In closing, I want to remind my colleagues of what one of my favorite Republican presidents said in his quote—Dwight D. Eisenhower—said in 1952 when our economy was booming and more than one in three private sector workers were unionized and the American GDP was at historic levels and everyone—all Americans—benefited. President Eisenhower said, "*Only a fool would try to deprive working men and women of the right to join the union of their choice.*"

What President Eisenhower understood then—and what we cannot forget now—is that labor unions are our *most effective* tool to ensure that *all workers*—union and non-union—have a voice in the workplace. Anyone who believes we can simply count on the good faith of every employer, particularly employers who are unscrupulous, to uphold their responsibility to workers is ignoring the reality that workers face every day and is ignoring our history.

These workers are counting on us to guarantee their right to form a union and negotiate for better working conditions.

Today, I hope we can come together—in spite of our differences—work to help deliver on that responsibility. I yield back.