PANEL III: UNIONS AND THE NEW IMMIGRATION LAW

SAMUEL ESTREICHER,* MODERATOR

SAMUEL ESTREICHER: The topic of this panel is the impact of the Immigration Reform and Control Act of 1986[1] ("IRCA") on labor unions and their members. As a generalization, and I think I am going to be corrected in this generalization by the panelists, I think that the organized labor movement has always supported the tightening of the United States' borders. There is a tendency, I think, by people outside the labor movement to see this as an aspect of liberalism or selfishness on the part of American unions.

But I think it is very hard to maintain a collective bargaining system and, at the same time, to have an unlimited flow of undocumented workers coming into the country. Collective bargaining is an attempt by unions to remove wages, hours, and working conditions from the competition of the marketplace. As such, it is always subject to the checks of the marketplace. When those checks are influenced by the unlimited flow of undocumented workers, in some sense, unfair competition exists.

RICHARD DAY:** When I first came to Washington to work with Senator Simpson as counsel to the Subcommittee on Immigration and Refugee Affairs of the Senate Judiciary Committee, I assumed, as Samuel just suggested, that one of the strongest supporters of immigration reform, at least of employer sanctions, would be organized labor. I used to think what a paradox it was that a conservative Republican like Simpson from Wyoming, a right-to-work state, would have the support of organized labor for this immigration reform bill. But I soon found that this was not really true. We really did not get much support from organized labor.

While at the top of their annual meeting, the AFL-CIO would always vote and pass a resolution to support the bill if it had sufficient, generous legalization and anti-discrimination provisions at the bottom, many of the local affiliates, particularly the hotel and restaurant and the ladies garment union, were working as hard as they could against the bill.

It is true that in the early 1970s unions were perhaps the group most supportive of employer sanctions. They were also opposed to legalization. The reasons unions were supportive of employer sanctions were that a short supply of labor is good for workers, and employer sanctions help keep undocumented workers out of the workforce. Similarly, not legalizing or granting

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* Mr. Estreicher is a Professor of Law at the New York University School of Law.

1. Immigration Reform and Control Act of 1986, Pub. L. No. 99-603, 100 Stat. 3359 (codified in scattered sections of 8 U.S.C.) [hereinafter IRCA].

** Mr. Day is Minority Counsel to the Subcommittee on Immigration and Refugee Affairs of the Senate Judiciary Committee.

amnesty to non-union, undocumented workers would prevent them from being given a chance to stay in the United States and compete in the workforce.

However, over time unions began acquiring larger Hispanic memberships and became more concerned about the discrimination and treatment of undocumented workers and of those who might be legalized under the bill. Unions' positions became that, while they needed to do something about the illegal immigration situation, they could not do anything that might cause discrimination in the workforce, nor could they allow anything but the most generous legalization program. As a result, in the end, there was very little support from any part of organized labor for the immigration reform bill.

I would like to make one last comment. As far as the role of unions now that the bill has passed, we did not consider any particular role for unions in drafting or processing the bill. However, I think it is likely that unions will have a role in helping undocumented people establish their residence and work history in the United States. It seems logical that unions would want to do what they can for these people who are going to be staying and working here, to show that unions can be helpful and hopefully to organize some of these newly legalized workers.

LINDA LIPSETT:* IRCA was passed in a hurry. It addressed many issues represented by different groups that do not usually work together. I think that the law reflects this divergence of views and the compromises that were made to see the bill passed. I also think that one result of this diversity and need for compromising is that there are many provisions of the law that are supported by organized labor, and at the same time, there are many provisions in the law that work against organized labor. What I would like to do here is briefly address some of the issues raised by IRCA with respect to unions so that you can see what I mean.

First, while the AFL-CIO, for whatever its political reasons, was perhaps not as supportive of the bill as Mr. Day would have liked, on the whole, the AFL-CIO did take a position very strongly in favor of employer sanctions. From the organized workers' point of view, employer sanctions make sense. Employers always say to unions when they go for a wage increase that they would love to give them a wage increase, but their non-union competition is driving the company out of business. Employer sanctions, by providing a remedy against employers who employ undocumented workers, better the balance between union and non-union employers; thus, it was in the interest of the organized workers to maintain their standards of wages by penalizing employers who exploit the most vulnerable workers in the workforce. For this reason, the AFL-CIO historically, and to this day, is strongly in favor of employer sanctions.

Second, although Mr. Day said that the legalization process creates a po-

* Ms. Lipsett is a partner in the firm of Connerton & Bernstein in Washington, D.C. The firm serves as general counsel to the Laborers International Union of North America.

tentially huge number of workers who can be brought into the labor movement, I do not think it will be that easy. The law presents many problems for organized labor, and the organizing issue is a good example. It is always difficult to organize undocumented workers because they have the additional problem, as well as being afraid of being fired, of being afraid that their employer will inform the INS and have them deported. As a result, the usual problems of organizing workers are compounded when working with undocumented workers. I do not think the new law makes organizing any easier. In fact, I think the new law makes organizing more difficult. The new law creates a subclass of workers who are grandfathered in.[2]

People who were working for a particular employer as of November 6, 1986, are exempt from having to meet the verification provision.[3] Their employer is exempt from sanctions as long as they continue to work for that employer.[4] However, if they seek another job they will be subject to the normal verification procedure, and their new employers will be subject to compliance with the law. If these workers are not eligible for legalization, they are not going to be allowed to work in this country. So the fears these workers have of deportation are now compounded by the fact that they cannot go to another employer to get another job but can work only for their present employer. So in terms of organizing, the fears are even greater for these workers.

Not only does IRCA create problems for the undocumented in this way, but the new law threatens the protections that were afforded undocumented workers under the Supreme Court decision in *Sure-Tan, Inc. v. NLRB*.[5] In *Sure-Tan*, the Supreme Court held that the National Labor Relations Act protects undocumented workers as well as documented workers and citizens. One of the major premises of *Sure-Tan* was that there were no employer sanctions, and therefore, an employer could unilaterally fire someone on the basis of their citizenship status. Now, with employer sanctions, the law creates a legal justification for firing an undocumented worker.

IRCA also creates serious problems for undocumented workers in terms of representation. This issue of whether undocumented workers protected under existing contract will continue to have remedies against wrongful discharge has not yet been addressed. Some courts have held in parallel contexts that in such situations the collective bargaining agreement prevails, and the arbitrator cannot look to the law.[6] However, other courts have held that the

2. IRCA, § 101(a)(3), 100 Stat. 3360, 3372 (1986). Ed. Note: Although portions of § 101(a) have been codified at 8 U.S.C. § 1324a(a) (Supp. IV 1986), the grandfather provision is mentioned only in the notes following the text of § 1324a.

3. *Id.* at § 101(a)(3)(B).

4. *Id.*

5. 467 U.S. 883 (1983). For a detailed discussion of *Sure-Tan*, see Alexander, *The Right of Undocumented Workers To Reinstatement And Back Pay In Light of Sure-Tan, Felbro, And The Immigration Reform And Control Act of 1986*, 16 N.Y.U. REV. L. & SOC. CHANGE 125 (1987-88).

6. *See* 9 U.S.C. § 10 (1982); S.D. Warren Co. v. United Paperworkers Int. Union, 815 F.2d 178 (1st Cir. 1987) (although arbitrators have great latitude in interpreting collective bargaining

arbitrator must look outside the law.[7] So again the question becomes whether IRCA gives an employer a justification for firing someone that she did not have before.

Even if it is found that undocumented workers are protected under grievance and arbitration procedures, there is still the question of whether or not the anti-discrimination provisions in the bill will give undocumented workers access to the courts if arbitration fails. Under Title VII[8] and the Fair Labor Standards Act,[9] notwithstanding the fact that you arbitrate, if you receive an unfavorable decision from the arbitrator, you are still entitled to take your case to court to get your remedy. Although an argument could be made that the same protections should be available under IRCA, the problem is that the anti-discrimination provisions of IRCA protect only those who are under temporary status or those who are citizens; thus, there is a question of whether an undocumented worker who feels she is wrongfully discharged and loses at arbitration will be allowed a crack at the courts.

There has been a kind of frenzy about the implementation of the law in the past few months since the bill was passed. The entire workforce and the entire employee population has to be re-educated as to what the law requires. Also, regulations have to be issued by the INS, which requires movement of not only the INS but the Office of Management and Budget and everyone who is going to comment on these proposals.

One thing that I think has been lost in this frenzy about implementation is the issue of legal realities. What I mean by legal realities is the question of whether this law is going to be enforced and how it is going to be enforced. Presently, there is not even any appropriation for implementation of the new law. I do not know if there is any reason to believe that this law is going to be enforced by the government any more than the existing wage standard laws are presently enforced. So the issue then becomes whether there will be self-enforcement, or private enforcement. We will not be able to measure the full impact of the law until it has been put into effect.

MUZAFFAR CHISHTI:* Americans have always been ambivalent about immigration. I see the Simpson-Rodino bill as the vehicle for the most recent dis-

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agreements, all arbitration awards must draw their essence from the collective bargaining agreement); United Steelworks v. Enterprise Wheel & Car Corp., 363 U.S. 593, 597 (1960) ("An arbitrator is confined to the interpretation or application of the collective bargaining agreement; he does not sit to dispense his own brand of industrial justice. He may, of course, look for guidance from many sources, yet his award is legitimate only so long as it draws its essence from the collective bargaining agreement.").

7. Ed. Note: This assertion is true only where the bargaining agreement required management decisions to be consistent with applicable law. Otherwise, the arbitrator's decision does not draw its essence from the collective bargaining agreement. U.S. Postal Service v. National Association of Letter Carriers, 789 F.2d 18 (D.C. Cir. 1986).

8. Civil Rights Act of 1964, 42 U.S.C. § 2000e (1982 & Supp. IV 1986).

9. Fair Labor Standards Act of 1938, 29 U.S.C. § 201-219 (1982 & Supp. IV 1986).

* Mr. Chishti is the Director of the Immigration Project of the International Ladies Garment Workers Union ("ILGWU").

play of this ambivalence. While the debate on this bill was not characterized by the same kind of racism as in the 1952 bill or the earlier acts, the overtones in the 1986 Act were consistently as xenophobic. The general attitude in the debate was that the United States has lost control of its borders and, by extension, its dignity, and that Americans were losing jobs to foreign workers. As a result, it is not surprising that a good part of the immigration reform debate was framed in the context of controlling illegal immigration and protecting American jobs.

I do not feel equipped to address the abstract notion of control over boundaries or control over dignity. However, I do know something about American jobs and the competition from foreign workers. The conventional wisdom in this country is that the new immigrants, especially undocumented immigrants, come to this country and take away jobs and depreciate the wages and working conditions of American workers. As the protectors of the American working class, trade unions are at the center of this controversy and are supposed to protect American workers against such competition.

The problem with this notion, I can safely say from my experience at ILGWU, which has been organizing and representing workers since 1900, is that new immigrants, including undocumented workers, have never threatened the jobs or the working conditions of American citizens or of permanent legal residents. Without getting into a long discussion about the economic debate over immigration, it is quite clear that there is no single labor market in this country. Any congressional policy which refuses to recognize that is going to be a faulty policy. We have a primary sector of the economy in which citizens and legal residents are interested in taking jobs when they are available to them. There is also a large secondary sector of the economy in which there is no competition. These are jobs which are categorized by low wages, harsh discipline and low upward mobility. These jobs have always been immigrant jobs. IRCA did not change this situation, nor will it control this situation. Ultimately, the laws of economic gravity are more important than laws that Congress passes and the projections that ambivalent demographers would like us to believe. Our union was founded in 1900 by Jewish immigrants who came from Eastern Europe and parts of Russia. Over the years, what we have seen is that every single wave of immigrants has been replaced by successor waves of immigrants. Of our original group of Jewish immigrants, we did not have a single second-generation Jewish immigrant who was interested in the industry. The Jews were replaced by the Italians, and not a single second-generation Italian wanted to enter the industry either. The Italians were followed by the blacks and Puerto Ricans.

What surprised a lot of people is that not a single second-generation black or Puerto Rican wanted to enter the industry. Instead, when the blacks and Puerto Ricans went back to the South or back to the island, there was a vacuum created in the garment industry. This vacuum was largely filled by new immigrants who to some extent were undocumented. Therefore, we cannot,

from our sheer experience, believe that immigrants have displaced American workers from the shops. We have not seen a displacement in New York. What we have seen is a recurrent theme of takeover of one successor generation by another.

Having said that, we now have IRCA to deal with. Whether we liked the bill, lobbied for the bill, or lobbied against it doesn't matter. It is all behind us. We have a law, and we can only deal with what the law is. Having worked with Mr. Day and his staff, and knowing how tired they were and how tired all of us were towards the end of the bill, it is clear that there is a lack of sheer energy to revisit this issue for a long time. Therefore, we have to understand the impact and challenge and opportunities of the IRCA as we know it now.

I think it escaped Congress when we were debating employer sanctions that not only were we writing one of the most important developments in immigration law in decades, but we were also, in a very unintentional way, writing one of the most important developments in employee relationships that has taken place in this country in almost fifty years. The new immigration law does not only affect immigrant workers, but it also affects every single worker in this country. The law is not limited to the employers of immigrant workers or the undocumented. Instead, an employer who has never seen, heard, or dealt with immigrant workers is suddenly asked to live up to the extremely tedious provisions of IRCA.

I know that law school is not exactly the most fashionable setting to simplify issues. However, for the sake of simplicity, let us assume that there are only three kinds of employers in this country: employers who obey laws day in and day out, employers who know the law will never be enforced, and employers who know the law may be enforced. I happen to believe that the employer sanctions mechanism is a disaster in all three cases.

Let us use New Jersey Bell to represent the kind of employer that believes that it must obey the law at all times. A personnel manager at New Jersey Bell who has just learned about employer sanctions is going to be worried because for the first time in this country, we have a federal law which says that she must almost literally get a citizenship test of every job applicant. The knee-jerk reaction of such personnel manager is going to be to play it safe. Playing it safe means going by stereotypes. There is no escaping that. I agree with the Hispanic organizations and the civil rights organizations, which say that IRCA is going to lead to discrimination against minority groups. The knee-jerk reaction of employers is going to be to try to avoid hiring foreign-looking people, especially if there is a choice among job applicants.

The second and third kind of employers are the sweatshops, the unscrupulous employers of the world. I know about them because I have to deal with them all the time. There are millions of these employers who hire not just immigrant workers but also American citizens. Sweatshops can be divided into two kinds of employers. The first will rest assured that there will be

no enforcement of the law given the structure and funding of the INS, which is charged with enforcing this law.

Believing that there just will not be enough enforcement or that enforcement is going to have to be very selective, what this group of employers is going to do is call in the undocumented and tell them, "Look, I used to pay you X dollars per hour. Now you know I could go to jail or be fined for hiring you; therefore, I am going to pay you X minus 10 and keep the 10 as an insurance policy." I think this will become an extremely common occurrence. This will be an added argument that employers will use to further exploit their undocumented workers. Employers will become the policemen and self-enforcers of the law in this way.

However, there will be a second group of sweatshop employers. These employers will believe that employer sanctions could be enforced and that the enforcement agencies might come and demand to look at their books and employment practices. If these employers operate their shops today in the back alleys, they will completely go into the basements. The result will be that the law enforcement officers of the Department of Labor and the Health and Safety Departments will find it extremely difficult to reach these sweatshops.

I think this is the broad psychological framework in which employer sanctions will actually operate in the workplace. I agree with Linda that one result of this framework is that we will get a large number of firings. As a union with responsibilities to our union members, how do we deal with this? Do we go to the arbitrators and tell them to reinstate these people? The arbitrators will say, "How can we ask an employer to do something which is against federal law and federal policy?" I think that beginning in June 1988 when the penalty part of employer sanctions will go into effect, we will have difficulty convincing arbitrators about the remedy of reinstatement.

One last note, legalization is an important part of the bill which we, as a union, fought for and are proud to have fought for. We believe that no immigration reform would be complete unless we accept the moral and political challenge posed by the presence of a large number of undocumented workers in the midst of our society. We want the legalization program to be as effective, as broad, and as inclusive as possible.

What we have seen in the past couple of months in terms of the Immigration Service's proposed regulations and practices is not good news. It seems that the Immigration Service in its regulations is trying essentially to do what it could not get out of Congress. I think most of the regulations are not only not in line with congressional intent, but they are exactly contrary to congressional intent. As a result, it looks like the legalization program will not be as successful as we want it to be. But our union, and I do not think that we are alone in this regard, is still committed to providing the best services we can to our members and their families to help legalize their status.

Legalization is an extremely important organizing tool of the labor movement. A union has to respond to the basic vulnerability of a worker, so that

the worker will trust the union. Every immigrant worker who is undocumented has an extremely vulnerable position with regard to immigration. A union which responds to that basic vulnerability is likely to build trust. We want to do that, and we are sure that the immigration workers will respond to our efforts. The AFL-CIO has not as yet decided whether it wants to be a national coordinating agency to help legalize people, but member unions of the AFL will. We will, some building trade people will, the county federation in Los Angeles will, the people in Chicago will. The legalization process, in a very distinct way, will help build coalitions between unions and various organizations in this country. Religious, civil rights, and ethical organizations, coalitions which generally fought against each other during the very divisive debate on immigration will be rejoined in a strange irony as we try to put the legalization program in effect. The old alliances between labor, religious and ethical groups will come back again. I think we may have much stronger alliances in the future.

SAMUEL ESTREICHER: Any comments from the panelists?

RICHARD DAY: When I hear something like Muzaffar Chishti's analysis of the effectiveness of the employer sanctions law, the three different kinds of employers and how it is not going to work, I always want to ask, what was the alternative? That was the most frustrating thing about those six years of debate. The opponents never had alternatives. As far as the idea that the law is not going to work because New Jersey Bell will be afraid to hire anyone who looks or sounds foreign, the law says that any employer who does not check the documents of every single employee, including his mother, is subject to a fine of up to $1000.[10] We put that provision in there precisely so that employers would not start checking the documents of people who look and sound foreign and let the rest who looked Anglo enough to probably be safe to go by. Employers have to check everybody, no matter how well they know that person. *Everybody* gets checked, and the reason is to avoid the kind of discrimination that Muzaffar was talking about.

I am interested in knowing what the Immigration Service is trying to get in the legalization program that they could not get from Congress. Senator Simpson recently sent an Op-Ed piece to the Washington Post about the fees that are proposed to be charged to applicants for legalization. The Immigration Service has said that there will probably be a fee of $150 to $250 per applicant. Many people are complaining that the Immigration Service is trying to make sure that the legalization program does not work by making it too expensive for people. But the folks that are here and are going to be applying for legalization paid anywhere from $300 to $700 just to get across the border. A legal applicant for a visa, a person who has a family in this country and is coming legally because of that, maybe after waiting ten years for his visa number to come up, pays over $185 to come here legally.

10. IRCA, § 101(e)(5), 8 U.S.C. § 1324b(g)(2)(B)(iv)(I) (Supp. IV 1986).

The point I want to make is that the legalization program is very unpopular with the American people. Our mail runs two, three, four to one against it. An amendment that was offered during the House debate to take the legalization program completely out of the House bill was defeated by just seven votes. It is an unpopular program. If the taxpayers of this country think that their leaders in Congress were nuts to have any kind of legalization in the bill at all, and now think they have to finance the legalization, there's gonna be hell to pay. I do not think it is unreasonable at all for the Immigration Service to charge a fee that is comparable to the cost of the program, particularly if the fee is not more than what the legal immigrant has to pay to immigrate to the United States.

I think we have to understand, and at least agree on the foundation of the legalization program. About eight countries of the world have tried legalization experiments: France has tried it about two or three times; Britain has tried it a couple of times; Canada has tried it once. The best legalization program in the world is given credit for getting an enrollment of less than 25% of the people — the Canadian legalization program of 1973. The Canadian legalization program was much more liberal than our program. It is quite clear that if we are going to have a successful legalization program it must be as broad as possible, and as simple as possible, and as believable as possible. And what we are seeing from the service are not indications of that intent on their part. I really do not want to get into the details of the problems of regulations because I am sure that other panels will address them.

AUDIENCE COMMENT: Just give us one example?

RICHARD DAY: Simple issues of what "continuous residence" in the United States means, and how many people will be disqualified under that. That is going much more beyond any case law and the debate in Congress on the continuous residence issue laws. The illegal workers are not going to be the ones that can easily produce pay stubs for each and every month that they have worked in this country. And the way the regulations are written, every alien will almost have to literally prove that they stayed and worked in this country for every day they were here, since 1982.[11] And I do not think that is the recipe for a meaningful program. We also have to change the basic psy-

11. Ed. Note: The Code of Federal Regulations defines "continuous residence" to mean that:

> [T]he alien shall be regarded as having resided continuously in the United States if, at the time of filing of the application for temporary resident status:
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> (i) No single absence from the United States has exceeded fourty-five (45) days, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982 through the date the application for temporary resident status is filed, unless the alien can establish that due to emergent reasons, his or her return to the United States could not be accomplished within the time period allowed;
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> (ii) The alien was maintaining residence in the United States; and
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> (iii) The alien's departure from the United States was not based on an order of deportation.

8 C.F.R. § 245a.1(c)(1)(1988).

chological framework of the Immigration Service. This is a Service that has operated as policeman of these people. These people do not trust them. Unless the Service shifts a gear and says that we are at least, for *this* program, going to act as facilitators of a legalization program, we will not have a successful program.

SAMUEL ESTREICHER: Thank you. Linda, do you have any comments?

LINDA LIPSETT: Well, I would like to comment on Mr. Day's characterization of the fee. While I do not want to be nit-picking about whether or not an individual can afford $175 or $150 or $250, I think that one has to understand that many of these workers are in very low-paid, minimum wage jobs, and if you're talking about $175 for each person in a family, it is a lot of money. It is not an insignificant amount to people who do not have much money. And I think that *is* an issue.

Also, with respect to what Muzaffar said, about the attitude of the INS, I think that one of the difficulties reflected in the proposed regulations has to do with disqualifying people for legalization who have never received unemployment benefits. When you are dealing with seasonal industries, or the construction industry, or the garment industry, you have people who, historically, traditionally, obtain unemployment benefits during those periods of the year when construction is low. If they are automatically going to be disqualified from legalization because they have received unemployment benefits, legalization for that industry will, in effect, be void.

AUDIENCE COMMENT: Is that the position the INS is taking? That unemployment benefits disqualify?

LINDA LIPSETT: That is a position that has not been published yet, but we understand it is rumored to be in the proposed regulations.

SAMUEL ESTREICHER: The INS is seriously behind the ball here. There is supposed to be a form for employers, I-9, and it is not yet out, even though the statute is in effect as of November, theoretically. We are running out of time so I think we will take some more questions from the audience.

AUDIENCE COMMENT: Mr. Day, isn't it true that according to the new Immigration Reform Act an employer has the choice of hiring, by law, a citizen over a non-citizen? Which proves Mr. Chishti's point, about the attitudes employers have who have the choice of hiring citizen over an immigrant?

RICHARD DAY: Well, that is a choice an employer had before the bill passed. What the bill says is that an employer cannot discriminate in the future, after the bill passed, on the basis of citizenship.[12] They cannot discriminate against someone in hiring because he is a citizen, or because he is an alien. It goes on to say, however, if you have two applicants and both are equally qualified, you can choose the citizen without being subject to an anti-discrimination suit.[13]

12. IRCA, § 102(a), 8.U.S.C. § 1324b(a)(1)(A) (Supp. IV 1986).
13. *Id.* at § 102(a), 8 U.S.C. § 1324b(a)(4) (Supp. IV 1986).

AUDIENCE COMMENT: But that is still discrimination — legal or not, you are still discriminating. I have a law degree, but if compared to somebody else, the employer is going to choose them because I am not an American citizen. That is discrimination to me, I am sorry.

RICHARD DAY: Well, let me just add one more thing. It also says that if you are an alien who has filed a declaration of intent to become a citizen and then have become a citizen within, I think it is a year after you become eligible for it, you cannot be discriminated against.[14]

SAMUEL ESTREICHER: Thanks, Richard. Any other questions from the audience?

AUDIENCE COMMENT: I have a question for the union representatives here today. I am concerned about one thing. I understand that unions are very concerned about an influx of labor that may be forcing out the unions, not helping to strengthen workplace safety regulations, etc. And I understand this concern. What puzzles me in this issue is what is the attitude of organized labor. Organized labor is now the most significant interest in stepping up and strengthening organizing on all fronts, including in those areas where, as you have said, we have traditionally had immigrant workers, as in the garment industries. Shouldn't organized labor be putting itself into extremely vigorous enforcement of the labor act and extremely vigorous organizing?

SAMUEL ESTREICHER: Do you want to handle that, Linda?

LINDA LIPSETT: Sure. Yes, I think that is true. That is one obvious response. On the other hand, and not to make excuses, but the truth is that there are limited resources for organizing the unorganized. And if you have employees who work a job, maybe for a month at a time, and then the job is over, and they take a new job, it is very difficult to organize in those situations. I found that the AFL-CIO is not going to become a qualified, designated entity under the new law, to process applications. I think one of the reasons is because of the limitation in resources. While this provides a perfect opportunity for organizing, they are left with putting their money in education rather than in processing applications. The Catholic Church is spending two hundred million dollars on legalization. Organized labor does not have that kind of money.

SAMUEL ESTREICHER: We are running out of time. I am told the curtain is about to come down on us. I think we all owe the panelists a round of applause.

14. *Id.* at § 102(a), 8 U.S.C. § 1324b(a)(3)(B)(ii) (Supp. IV 1986).