First, the Civil Rights Act of 1964 was enacted by a Congressional majority in the wake of movement mobilization, intensive national debate, and legislative deliberation. To call Title VII "anti-majoritarian" (8) discounts these democratic credentials, even though Schiller has convincingly shown that civil rights law undermined a certain kind of (racially exclusionary) workplace democracy.

Second, some Title VII rights that were particularly detrimental to union autonomy were not individual, but rather *systemic* in nature. For example, "pattern or practice" liability, canonically interpreted by the Supreme Court in *Teamsters v. United States*, 431 U.S. 324 (1977), struck not primarily at the violation of the rights of individual minority workers, but rather at broader practices of minority exclusion and segregation. Although such Title VII claims were not substantively majoritarian, nor do they sound in "individual rights" (252). Perhaps it is in this effort to analyze and regulate the labor market as a social system, rather than as a set of "free" individual choices, that civil rights and labor law might in the future find common purpose.

Blake Emerson
Yale University

Charles W. Romney, *Rights Delayed: The American State and the Defeat of Progressive Unions, 1935–1950*, New York: Oxford University Press, 2016. Pp. 288. $74.00 Hardcover (ISBN 978-0190250294).
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Charles Romney's *Rights Delayed* examines the role of law in labor relations. Elements of Romney's story are notably contemporary: workers fired illegally, governmental response so slow as to make the illegality of those firings immaterial, and, as a result, the denial to employees of their rights to organize and to associate over workplace concerns. *Rights Delayed* consists largely of a detailed analysis of the role of labor law in the West Coast canning industry from 1935 to 1950, and the competition among unions seeking to organize such workers. The study has larger ramifications, however, making clear that the problems in labor law that deny workers justice are quite old, and are a result of flaws woven into the New Deal system of labor law, rather than of later developments.

Romney returns repeatedly to the legal proceduralism of the National Labor Relations Board (NLRB). As the book explains, the NLRB adopted legal procedures designed to shelter the agency from courts and from congressional attacks. The resulting legal system cost so much time and money that it

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advantaged the interests of more powerful actors, specifically employers and larger more conservative unions, over the interests of workers and unions that might better represent workers' interests. Romney repeatedly illustrates the ineffectiveness of labor law. Contracts that NLRB attorneys knew were illegal because of collusion as well as tampering with union certification election processes, would remain in force for years despite their transparent illegality. Cases brought over workers fired for straightforwardly illegal reasons routinely took several years to resolve. Justice that slow was no justice at all. Labor law was, as it often still is, a line that employers and colluding unions could cross with impunity.

In many respects, the book supports a view of which many pro-union labor law watchers are already convinced: the NLRB is broken in a way that renders workers' rights merely paper promises. The book contains at least three unexpected findings, however. First, the primary problem was not NLRB staffing nor was it a matter of who was in charge politically. Rather, legal proceduralism itself was the problem, in a way that was present very early in the life of the NLRB. Legal procedure takes a long time, time that organizers seeking to build unions and fired workers in need of a paycheck simply did not have. Likewise, legal procedure imposed costs on unions that smaller unions could ill afford. Second, the Taft-Hartley Act of 1947, which outlawed closed shops, made unions subject to charges of unfair labor practices, and required unions to sign affidavits forswearing communism, was not the turning point. Taft-Hartley, in Romney's account, largely ratified an order that was already in place by 1945. Third, closed shop provisions in union contracts, in the hands of the Teamsters Union as Romney portrays them, do not appear as tools for workers' benefit. Rather they were an instrument through which unions could collude with management to reduce union competition by firing workers who sought to exercise their right to select representatives of their own choosing.

I would venture two small criticisms of the book. The first may be a matter of scholarly tastes, but I wish Romney had generalized further. The empirical findings here are a rock solid foundation for remarks about, for example, the constitutive role of law in creating class relationships, the limits of law's authority over economic actors, or the prospects for labor law reform today. Legal scholars seeking these broader claims will find them largely missing. More substantively, Romney does not thoroughly explain what made the Congress of Industrial Organizations (CIO) affiliates more progressive than the American Federation of Labor (AFL) affiliates. Early in the book, he briefly suggests that the CIO unions had better feminist and antiracist credentials, and he touches upon the relationships that some CIO personnel had with the United States Communist Party. Later, he suggests that the CIO unions were more militant, whereas the AFL unions were more prone to class collaboration and less able to deliver the goods to workers. Romney is probably

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correct in these assessments; however, I believed that before I read the book. Readers skeptical of those claims, or unfamiliar with the history of those unions, may not be convinced by his brief remarks about the politics of the AFL and the CIO affiliates.

Notwithstanding those issues, Romney's book is assiduously researched and painstakingly detailed, showing the "up close and personal" operations of labor law in the lives of unions and workers seeking to organize. It is not a flattering portrait of the law. Labor historians and scholars of labor law will learn much from this fine book.

Nate Holdren
Drake University

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