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President Obama Secures NLRB 'Blank Check'

Harry Reid Wins Without Firing a Shot in Fight Over Senate Rules

For the vast majority of American history, the rules of the U.S. Senate have clearly allowed a minority of members to delay enactment of legislation or confirmation of a presidential nominee they oppose by sustaining an extended debate.

But now, largely as a consequence of the grim determination of Democratic President Barack Obama and Democratic Senate Majority Leader Harry Reid (Nev.) to do the will of union officialdom, no matter what, the future viability of this important check on government excesses is in grave doubt.

Last month, Mr. Reid succeeded in virtually eliminating extended debates over executive-branch nominations, at least for the foreseeable future.

At the same time, he may also have paved the way for the complete abolition of extended Senate debates, otherwise known as filibusters.

It has long been a well-known fact that top union bosses are intensely hostile towards the use of extended debates as a means of blocking special-interest legislation until an alerted public can defeat it completely.

And Mr. Reid's doggedness in doing basically whatever union lobbyists tell him to has never been a secret, either.

But until mid-July few political observers expected that he could go so far towards eliminating extended debates without ever actually calling a vote on a rule change.

Last month's attack on venerable Senate rules and customs authorizing a minority of members to slow down proceedings by launching an extended debate had the immediate aim of quashing opposition to President Obama's union-label nominees for the five-member National Labor Relations Board (NLRB).

CREDIT: REUTERS/KEVIN LAMARQUE

With the path clear for pro-forced unionism radicals to be appointed to the NLRB without meeting real resistance from GOP senators, Big Labor partisan Charles Schumer (N.Y.) gloated to the media.

Top Union Bosses Prodded Majority Leader to Deploy 'Nuclear Option'

For months, top union bosses publicly prodded Harry Reid to take extraordinary actions so that all pending Obama nominations to the NLRB could be quickly rubber-stamped.

Specifically, the union brass called on Mr. Reid to change the Senate rules so that it would take only a bare majority of senators, rather than 60 out of 100, to shut down an extended debate and bring a nomination to a final up-or-down vote.

Of course, longstanding Senate procedures prohibited Mr. Reid from making this drastic change unless at least 66 of the 99 other senators agreed to them. But Big Labor insisted Mr. Reid could get around this obstacle by labeling the power grab it desired a "point of order."

This so-called "nuclear option" would make it possible for Senate rules on extended debates to be rewritten with the support of as few as 51 members.

But Mr. Reid didn't actually have to "go nuclear" last month.

On July 16, a handful of weak-kneed establishment GOP senators cut a deal with the majority leader whereby he agreed not to deploy the nuclear option for now, and they promised not to support extended debates against several Obama NLRB nominees.

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New Extremist NLRB Installed

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Extended debates against future Obama NLRB picks and his other executive-branch nominees are still technically possible, but few believe any will occur any time soon.

As Republican Sen. Ted Cruz (Texas) lamented, "We preserved the right to surrender in the future."

The sole "concession" the President had to make in order to subdue all effective Senate resistance to his packing his NLRB with zealous promoters of monopoly unionism was to withdraw his nominations for extended terms of two union boss-allied members, Richard Griffin and Sharon Block.

The Griffin and Block nominations were controversial in part because of their track records of creatively "reinterpreting" federal labor law to intensify its pro-forced unionism bias after Mr. Obama "recess" appointed them to the NLRB on January 4, 2012.

Two New Appointees Picked 'In Consultation With' AFL-CIO Czar Richard Trumka

But these nominations were also controversial because Mr. Obama had used his "recess" appointment power to install Mr. Griffin and Ms. Block on the board without Senate approval, even though the Senate was not actually in recess on January 4, 2012.

And this January a three-judge panel on the U.S. Court of Appeals for the D.C. Circuit unanimously found that these putative "recess" appointments were unconstitutional and illegal.

Unfortunately, many GOP Senate opponents of the Griffin and Block nominations focused almost exclusively on their illegal ''recess'' appointments a year-and-a-half ago.

Consequently, senators downplayed the importance of their unwillingness to uphold even the minimal protections afforded by the right not to join a union by the National Labor Relations Act.

"As *Politico* reported, after dropping the Griffin and Block nominations, the White House quickly chose to take their places two other rabid proponents of compulsory unionism 'in consultation with AFL-CIO head Richard Trumka,'" noted National Right to Work Committee President Mark Mix.

"It was as if the mere fact that the President hadn't previously illegally appointed union lawyer Nancy Schiffer and ex-union lawyer Kent Hirozawa sufficed to make them worthy of receiving Senate approval without delay.

"The decision of a few appeasement-minded Senate Republicans, led by unsuccessful 2008 presidential candidate John McCain [Ariz.], to give the President a free pass on NLRB nominations could soon have grave consequences for many independent-minded workers.

"Until the D.C. Circuit interceded, the NLRB had been expected early this year to impose sweeping changes to decades-old procedures under which Big Labor may obtain monopoly-bargaining power over workers."

Union Bosses Want NLRB to Give Them Access to Union-Free Workers' Phone Numbers

Mr. Mix continued:

"Among the proposals the Obama NLRB has been considering are new rules mandating that employers hand over employee phone numbers and e-mail addresses to union organizers at the outset of each certification campaign.

"Now that Big Labor Senate Democrats, joined by a handful of Republican collaborators, have given the green light to Obama nominees for all five NLRB seats, this scheme could come to fruition very soon.

"Fortunately, the Republican House leaders who have been sharply critical of the Obama NLRB's excesses and will retain control of Congress's lower chamber over at least the next year-and-a-half retain the power to rein in this rogue agency."

Right to Work President Vows to Work With Capitol Hill Allies to Stop NLRB

Mr. Mix vowed that the Right to Work Committee would work closely over the next few months with Capitol Hill allies to see how Congress's power over the federal purse strings can be used to stop NLRB bureaucrats in their tracks.

"The U.S. House is the originator of all appropriations measures, including measures funding the NLRB," Mr. Mix explained.

"House leaders who are on the record as Right to Work allies can stop the NLRB from launching additional assaults on independent employees' freedom to do their jobs without being corralled into an unwanted union.

"The only question is whether or not GOP House leaders have the will."

CREDIT: CRUZ FOR SENATE

Extended debates against executive-branch nominees are still technically possible, but few believe any will occur any time soon. As Republican Ted Cruz (Texas) lamented, "We preserved the right to surrender in the future."

Big Labor Admits to Having Flubbed Obamacare

Spent Workers' Forced Dues to Enact a Law That Is Hurting Them

With every passing month, it seems, union bosses are decrying more loudly the single legislative achievement of the President they played a critical role in electing in 2008 and re-electing in 2012.

One remarkable example is a July 11 letter, jointly written by three officials of large international unions, regarding the "nightmare scenarios" that will soon be brought about by the so-called Affordable Care Act of 2010, otherwise known as Obamacare, unless it is repealed or completely rewritten.

CREDIT: REUTERS

Why should federal policy continue forcing workers to pay dues as a condition of employment to Teamsters czar Jim Hoffa and other union dons who now tacitly admit to having ill served those workers?

Law 'Creates an Incentive' For Firms to Keep Employee Work Hours Below 30 a Week

The open letter from Teamsters czar Jim Hoffa, United Food and Commercial Workers (UFCW) union chieftain Joe Hansen, and UNITE-HERE union honcho Donald "D" Taylor was addressed to Democratic congressional leaders Harry Reid and Nancy Pelosi.

According to Mr. Hoffa Mr. Hansen, and Mr. Taylor, if Obamacare is allowed to stand as it is, it will "destroy the very health and wellbeing of our members along with millions of other hardworking Americans."

One of the "unintended consequences" of Obamacare decried by the July 11 letter's coauthors and other union chiefs is that it "creates an incentive for employers to keep employees' work hours below 30 hours a week."

Mr. Hoffa, Mr. Hansen, and Mr. Taylor elaborated that Obamacare's mandate for employers to provide "affordable" health insurance coverage for full-time employees (recently delayed until January 2015 by presidential fiat) has prompted "numerous employers" to "cut workers' hours to avoid this obligation."

Of course, "fewer hours" mean "less pay" as well as, in many cases, a loss of health insurance benefits the employee had before.

Experts Agree Big Labor Bosses' New-Found ACA Concerns Are Warranted

Another major concern for union bosses is the detrimental impact of Obamacare on multi-employer health plans, commonly referred to as Taft-Hartley plans.

Roughly 800,000 of the UFCW union's 1.3 million members are covered under such plans.

Obamacare's regulatory changes are expected to drive up dramatically the cost of Taft-Hartley plans. Mr. Hoffa, Mr. Hansen and Mr. Taylor predicted the law would make "non-profit plans like ours unsustainable."

"A wide range of health-policy observers agree Big Labor's new found concerns about Obamacare are fully warranted," noted Matthew Leen, vice president of the National Right to Work Committee.

"But the union bosses' flip-flop after previously backing the ACA to the hilt also exposes a fatal flaw in the policy rationale for forced unionism.

"The two pillars of federal labor law, the National Labor Relations Act as amended in 1947 and the Railway Labor Act as amended in 1951, explicitly authorize union officials, acting with employers' acquiescence, to compel unionized employees to pay dues or fees as a condition of employment.

"Even employees who would never voluntarily join a union wielding 'exclusive' bargaining power at their workplace are forced to fork over union dues or fees, or be fired.

"Labor laws covering state and local public employees in nearly two dozen states that are patterned after the NLRA also authorize and promote compulsory union dues and fees."

False Rationale For Forced Dues Is That Union Bosses Serve All Workers' Interests

"The phony rationale for forced financial support for unions is that union officials allegedly act in the interest of all employees," Mr. Leen continued.

"This has never been true. But what's new in 2013 is that union bigwigs like roofers union kingpin Kinsey Robinson as well as Joe Hansen of the UFCW, Jim Hoffa of the Teamsters and Donald 'D' Taylor of UNITE HERE are effectively admitting it.

"Mr. Robinson, et. al., concede that, for several years at least, they have been acting contrary to the interests of the workers they purport to represent on matters concerning Obamacare.

"If a number of high-ranking union bosses now tacitly admit they have long represented workers poorly on a critical issue concerning their future health benefits, why should federal policy continue forcing workers to pay union dues as a job condition?"

‘Pennsylvania Can Surely Do Much Better’

Right to Work Legislation Now Before Keystone State House, Senate

Pennsylvania is the state where the original U.S. Constitution was drafted and adopted -- and takes appropriate pride in that fact.

Ironically, however, Pennsylvania today is one of 26 states that continue to give short shrift to the core constitutional principle of equal protection under the law when it comes to employees who don’t want to join a union.

In Pennsylvania, like in every other state, it’s illegal under all circumstances to fire employees for joining and/or financially supporting a union.

But policies currently in effect in the Keystone State authorize and encourage employer/union-boss pacts to fire employees who refuse to support financially a union they would never join voluntarily.

Workers who don’t want a union are forced to pay dues even though they are “often actually made *worse* off” by Big Labor-negotiated contracts than they were before, as anti-Right to Work law professor Sheldon Leader admitted (emphasis in the original) in a 1992 book.

The good news is that 21st Century Pennsylvania has the opportunity over the next few years to live up to its marvelous history as the seat of liberty in our country.

Roll-Call Votes Let Freedom-Loving Citizens Know Where Their Politicians Stand

On July 22, state Sen. Mike Folmer (R-Lebanon) introduced S.B.1073, legislation that would rescind the legal power of both private- and government-sector union officials in Pennsylvania to get workers terminated for refusal to pay dues or fees to an unwanted union.

Legislation that would make Pennsylvania America’s 25th Right to Work state had already been introduced in the state House of Representatives on April 30, as H.B.50. The lead sponsor of the House measure is Rep. Daryl Metcalfe (R-Cranberry).

National Right to Work Committee President Mark Mix personally traveled to Pennsylvania’s capitol in Harrisburg last month to confer with Mr. Folmer prior to the introduction of S.B.1073.

Mr. Mix had previously met with Mr. Metcalfe shortly before he brought up H.B.50.

“The most important thing freedom-loving Pennsylvanians can do now to do away with compulsory unionism is to contact their state elected officials and ask them to support roll-call votes on S.B.1073 and H.B.50,” said Mr. Mix.

“For years, polls have shown that a lopsided majority of people in the Keystone State support the Right to Work principle. Roll-call votes are necessary so concerned citizens can know for sure where their politicians stand on this important issue.”

Economic as Well as Moral Considerations Favor Right to Work Passage

Mr. Mix added that Pennsylvanians have several good reasons to lobby determinedly for passage of a state Right to Work law:

“Fairness to the individual worker is the most important reason of all. The right not to support a union is no less deserving of legal protection than the right to join.

“Concern about the corrosive impact on American elections of Big Labor phone banks, get-out-the-vote drives, and propaganda mailings that are financed primarily with dues and fees workers are forced to pay as a job condition is another compelling reason to make unionism purely voluntary.

“And vast numbers of people are understandably impressed by the wide array of economic data showing a substantial ‘growth advantage’ for Right to Work states over forced-unionism states.

“From 2001 to 2011, for example, total private-sector employment as measured by the U.S. Commerce Department’s Bureau of Economic Analysis grew by 12.5% in the 22 states that then had Right to Work laws on the books.

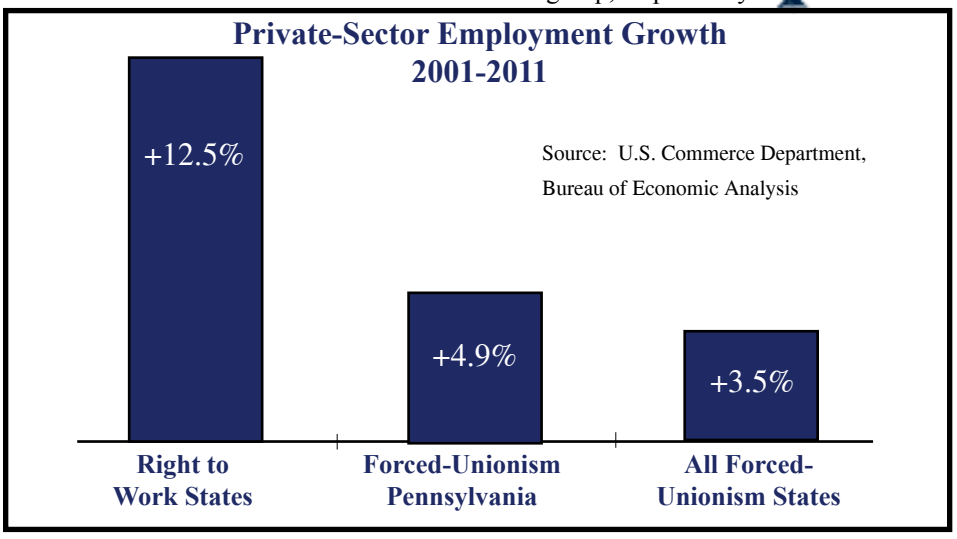
“The percentage gain for Right to Work states was more than 2.5 times as great as Pennsylvania’s and well over triple the average increase for forced-unionism states. Pennsylvania can surely do much better.”

(Indiana and Michigan became the 23rd and 24th Right to Work states when their laws took effect in February 2012 and March 2013, respectively.)

Jobs Created in Right to Work States Are Mostly Family-Supporting Jobs

Mr. Mix added that U.S. Census Bureau data show the net new jobs being created in Right to Work states are predominantly family-supporting jobs:

“From 2002 to 2012, the total number of children (aged 17 and under) in the 22 states that had Right to Work laws throughout the period grew by 8.1%. Meanwhile, there were 4.3% and 3.5% juvenile population declines in Pennsylvania and forced-unionism states as a group, respectively.”



The best reason for Pennsylvanians to enact a Right to Work law is that forced unionism is morally wrong. But private-sector job growth and other data also suggest the state would benefit economically.

New Labor Secretary a Forced-Unionism Ideologue

Senate GOP 'Gang of Six' Paved Way For Thomas Perez's Confirmation

Last month, the U.S. Senate decided to overlook grave questions about Thomas Perez's ethics as well as ample evidence that he is a radical proponent of monopolistic unionism. On July 18, the chamber rubber-stamped President Barack Obama's nomination of Mr. Perez to be his new labor secretary.

Why did the Senate give a green light to a man whose record, as a May 20 Wall Street *Journal* editorial observed, "clearly shows he's happy to stretch the law for partisan and idelogical purposes"? There are two key reasons.

First, the AFL-CIO and other Big Labor lobbyists who loudly applauded the Perez nomination from the time it was announced in March hold extraordinary power over Democratic politicians in Washington, D.C.

Every single one of the 52 Democrats and two nominal "Independents" in Senate Majority Leader Harry Reid's (Nev.) caucus gave a "thumbs up" to Mr. Perez.

Even Democrats Mark Pryor (Ark.), Mary Landrieu (La.), and Kay Hagan (N.C.), who represent Right to Work stronghold states and face potentially tough re-election bids next year, toed the Big Labor line.

The second reason Mr. Perez sailed through the Senate is that half-a-dozen GOP senators colluded with Mr. Reid by voting to cut off debate on the nomination.

Six Republican Senators Thumb Their Noses at Pro-Right to Work Constituents

Facing a threat from Mr. Reid to use legally dubious tactics to eliminate longstanding Senate rules requiring the votes of 60 senators (out of 100) rather than a bare majority to shut down debates against controversial nominations, a handful of establishment Republican senators caved in.

On July 16, a deal was announced in which the majority leader said he would not tamper with Senate procedures for now, and a band of Republicans promised not to support extended debates against Mr. Perez and a number of other pending pro-forced unionism Obama nominees for key positions.

(For more information, see this month's Newsletter cover story.)

CREDIT: ASSOCIATED PRESS

Sen. Lamar Alexander (Tenn.) sometimes purports to be a Right to Work ally, but his recent vote to end debate on the nomination of forced-unionism extremist Thomas Perez belies that claim.

One day later, six of these Big Labor-appeasing Republicans, Lisa Murkowski (Alaska), John McCain (Ariz.), Mark Kirk (Ill.), Susan Collins (Maine), Lamar Alexander (Tenn.), and Bob Corker (Tenn.), voted to cut off debate on the Perez nomination, giving the union bosses the 60 votes they needed.

The following day, all six turned around and cast basically meaningless votes against confirmation, knowing full well they had voted for Mr. Perez when it actually mattered.

"The 'gang of six' Republicans who paved the way for Thomas Perez to become labor secretary thumbed their noses at their pro-Right to Work constituents," commented Mary King, vice president of the National Right to Work Committee.

Mr. Perez's Maryland Record Augurs Ill For Independent-Minded Workers

"And weak-kneed Republicans' attempts to cover their tracks by expressing token opposition to pro-forced unionism nominees after their confirmation has already been guaranteed doesn't fool anyone," Ms. King continued.

"Under Thomas Perez, the DOL [U.S. Department of Labor] is likely to do even more to corral and keep workers under union-boss control than it did under President Obama's first labor secretary, Hilda Solis.

"Mr. Perez's record during his two-year tenure as Maryland's labor secretary indicates he will make the DOL even more political and even more focused on serving union bosses' objectives than did Ms. Solis.

"In the Free State, Mr. Perez installed the president of the AFL-CIO-affiliated Baltimore Building and Construction Trades as Maryland commissioner of labor and industry.

"And Mr. Perez selected a former organizer for the notorious Laborers International Union of North America as executive director of the Maryland Home Improvement Commission, despite the fact that U.S. DOL investigators considered LIUNA to be a corrupt organization.

"Under Mr. Perez, the U.S. DOL can be expected to continue willfully failing, as it did during President Obama's first term, to enforce the Davis-Bacon Act's anti-kickback provisions -- and thus allow workers' wages to be kicked back to employers through union-sponsored 'job target' funds.

"But as a seasoned operative with far more experience managing bureaucracies than Ms. Solis had, Mr. Perez has the capacity to succeed in making union chiefs even less accountable to rank-and-file employees.

"President Obama and union-label Senate Democrats are responsible for this blow to Americans' Right to Work. But so are the GOP senators who helped install Mr. Perez."

Forced Union Dues Fuel Giant Political Machine

Big Labor Spent $1.7 Billion on Politics, Lobbying in 2011-2012

A new National Institute for Labor Relations Research analysis of reporting forms filed by union officials themselves with federal and state government agencies conservatively estimates that Big Labor spent $1.7 billion on politics and lobbying just in the 2011-2012 campaign cycle.

And that represents a hefty increase over the estimated $1.4 billion union bosses poured into politics in 2009-2010.

Poor-mouthing union officials and supposedly nonpartisan monitors of political spending like the Washington, D.C.-based Center for Responsive Politics (CRP) continue even today to foster the totally false impression that Big Labor PAC and 527 group expenditures represent all the electioneering unions do.

But the LM-2 forms that private-sector and some government-sector unions with annual revenues exceeding $250,000 are required to file with the U.S. Labor Department, along with other publicly available resources, show they actually control by far the most massive political machine in America.

Forced Dues-Stocked Union Treasuries Finance Get-Out-the-Vote Activities

In 2003, then-President George W. Bush's Labor Department revised LM-2 forms with the avowed goal of helping millions of workers who are forced to pay union dues or fees as a job condition get a better idea of where their conscripted money was going.

This was a worthwhile initiative. Current labor laws, as interpreted by federal courts, unjustly authorize the firing of employees for refusal to pay for unwanted union monopoly bargaining, unless the employees are protected by a state Right to Work law.

But the U.S. Supreme Court, in precedents argued and won by National Right to Work Foundation attorneys, has made it clear time and again that employees may not legally be forced to pay for non-bargaining activities -- regardless of where they live.

Unfortunately, in a misguided and futile attempt to appease the union brass, Bush officials failed to require union reports to strictly segregate all bargaining and non-bargaining activities in the revised LM-2's.

CREDIT: JOHN SHINKLE

Top union bosses like the AFL-CIO's Richard Trumka control by far the biggest political machine in America.

Nevertheless, since the LM-2 revision withstood an extended Big Labor legal challenge and took effect, union officials have been required to report each year how much they spend on two major non-bargaining activities -- electioneering and lobbying.

A review conducted for the Institute of all LM-2 forms filed for 2011 and 2012 shows that unions filing such forms spent a total of $1.37 billion in union treasury money on "political activities and lobbying" in the 2012 election cycle alone.

That exceeded by roughly $230 million LM-2-filing unions' combined political and lobbying expenditures of $1.14 billion in the 2010 campaign cycle.

The Institute analysis also added up political spending by government unions appearing in state campaign finance reports and found they dumped a total of nearly $220 million into the 2011-2012 elections.

Union PAC and "Section 527 group" political expenditures not reported elsewhere add another $106 million.

Forced-dues-fueled spending pays for phone banks, get-out-the-vote drives, propaganda mailings, and other so-called "in-kind" support for union boss-favored candidates.

Many Deeply Political Unions Don't Have to File LM-2's

Big Labor political and lobbying expenditures reported on LM-2 forms are the single largest component of the union electioneering machine. But there is plenty LM-2's don't cover.

"Government unions that have no private-sector members, including many affiliates of the National Education Association teacher union and other deeply political state and local unions, don't have to file LM-2's," noted National Right to Work Committee Vice President Greg Mourad.

"And unlike business and other interest-group spending, Big Labor's 'in-kind' expenditures on politics are financed primarily by forced-dues and forced-fee money, often paid by workers who aren't union members and personally oppose the union-boss agenda.

"Congress can and should end this outrage by passing a national Right to Work law prohibiting all forced dues and fees."

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Congress Must Defend the Constitution

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the Northern District of Texas that aims finally to end schemes in which union nonmembers have to "opt out" of bankrolling union politics.

The Foundation attorney in the case is asking the court to end this abuse by prohibiting the extraction of all forced union fees from workers who don't belong to a union.

Counting Entirely on Judges To Defend the Constitution A 'Dangerous Doctrine'

If successful, this case will constitute a major step towards restoration of independent-minded employees' First Amendment rights of personal free speech and freedom of assembly.

But under the American system of government it isn't just the judiciary that has the power and duty to defend the Constitution. All three branches of the federal government, as well as state and local officials and ordinary citizens, share the responsibility.

"In an 1820 letter to diplomat, financier and philanthropist William Jarvis, Thomas Jefferson denounced the notion that only the judiciary is responsible for defending the Constitution as a 'dangerous doctrine,'" recalled Mark Mix, president of the National Right to Work Committee.

"The principal author of the Declaration of Independence was quite right that 'functionaries' responsible 'to elective control' also must weigh constitutional questions and act on their conclusions.

"This summer, Right to Work members nationwide are contacting their U.S. congressmen and senators to urge them put a stop to federal labor policies that, as the Supreme Court acknowledged in its 1984 *Ellis* ruling, impose a 'significant impingement on First Amendment rights.'

"Specifically, Committee members and supporters are asking their elected officials to cosponsor and seek recorded votes on H.R.946/S.204, also known as the National Right to Work Act."

Introduced in Congress this year by, respectively, Rep. Steve King (R-Iowa) and Sen. Rand Paul (R-Ky.), H.R.946 and S.204 would revoke Big Labor's privilege to exact forced union dues and fees from workers as a condition of employment.

Union bosses would retain their monopoly-bargaining privileges.

'Stop Union Bosses From Filling Their War Chests With Nonmembers' Money'

But employees covered under the law who opted not to join a union would never be forced to fork over union dues in order to get or keep a job.

Consequently, Big Labor would never be able to load up its political coffers with union nonmembers' forced-fee money.

"The 2.8 million National Right to Work Committee members have a message for Congress," said Mr. Mix. "To put it simply, 'Stop union bosses from filling their war chests with nonmembers' money.'

"The 'remarkable boon for unions' embedded in current labor law that Justice Alito identified last year is a blot on the First Amendment.

"Congress as well as the federal courts has a duty to remove this blot at the soonest opportunity -- and the National Right to Work Act would accomplish that objective."

CREDIT: DON HESS/ST. LOUIS (MO.) *POST-DISPATCH*

Typically, a substantial share of the forced-fee money Big Labor has deducted from union nonmembers' paychecks goes into union electioneering and lobbying programs. Union bosses don't have to ask first.

Why Presume Nonmembers Support Union Politics?

Forced-Dues Repeal Would Terminate Big Labor's 'Remarkable Boon'

Early last summer, U.S. Supreme Court Justice Samuel Alito sent shivers up the spines of Big Labor bosses and other proponents of compulsory unionism across America.

In his June 2012 majority opinion in *Knox v. SEIU Local 1000*, the justice agreed with the plaintiffs and the National Right to Work Foundation attorney representing them that their rights under the Supreme Court's 1986 *Hudson* decision had been violated.

But Mr. Alito did not stop there. Writing for the court, he frankly admitted that, in several regards, the constitutional protections for workers who choose not to join a union provided by *Hudson* and subsequent related cases may well be insufficient and in need of strengthening.

Notably, Mr. Alito observed that, in virtually all cases concerning private organizations other than labor unions, federal jurisprudence has found that the right to join and the right not to join must be equally protected under statutory law.

The High Court's willingness since the mid-20th Century to sidestep this principle by giving its assent to federal and state statutes forcing union nonmembers to pay fees for union activities purportedly "benefiting" them is "an anomaly," Mr. Alito admitted.

CREDIT: JACK BRUMMET'S GALLERY

Supreme Court Justice Sam Alito has frankly admitted that federal courts up to now may have failed to give sufficient constitutional protection to workers who choose not to join a union.

Withholding Taxation Power From Private Groups a 'Hallmark of a Free Society'

Such dubious legal logic has been rejected again and again when the organization seeking to benefit from state-authorized coercion wasn't a union, Mr. Alito observed. To drive home the point, he quoted approvingly from a 1995 book review by law professor Clyde Summers:

"If a community association engages in a clean-up campaign or opposes encroachments by industrial development, no one suggests that all residents or property owners who benefit be required to contribute.

"If a parent-teacher association raises money for the school library, assessments are not levied on all parents. If an association of university professors has as a major function bringing pressure on universities to observe standards of tenure and academic freedom, most professors would consider it an outrage to be required to join. If a medical association lobbies against regulation of fees, not all doctors who share in the benefits share in the costs."

The power to collect compulsory assessments is, effectively, taxation power. Dr. Summers recognized that withholding this power from officers of private groups, even groups that have much stronger claims of benefiting nonmembers than does Big Labor, is a "hallmark of a free society." But under federal law, for the better part of a century, union bosses have had the power to tax nonmembers.

Making Nonmembers 'Opt Out' of Big Labor Politics Is a 'Boon' For Union Dons

The *Knox* opinion also addresses a second peculiar feature of federal case law regarding the relationship between unions and employees.

Under *Hudson* and a host of other related decisions, it is considered constitutional for union bosses and employers to require union nonmembers who don't wish to pay for union nonbargaining activities, including political and ideological endeavors they may abhor, to "opt out" from support for them.

What this means in practice is that a union nonmember who is forced under federal or state law to pay for union bargaining he or she never requested also typically has deducted from his or her paycheck money that goes into union electioneering and lobbying programs.

Unless the union nonmember explicitly objects to Big Labor's use of his or her money for nonbargaining activities, the Supreme Court has for decades allowed union officials to take the money without ever getting the employee's permission.

As Mr. Alito summed it up, requiring union nonmembers to "opt out" of Big Labor politics "represents a remarkable boon" for union officials. Unfortunately, *Knox* afforded the High Court only the opportunity to prohibit one relatively rare type of union-boss political coercion of nonmembers.

Consequently, union dons' "remarkable boon" remains enshrined in federal labor law today.

But this summer, the Right to Work Foundation and six airline industry clients are pursuing a class-action lawsuit in the U.S. District Court for

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