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Newsletter

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West Virginia Enacts State Right to Work Law

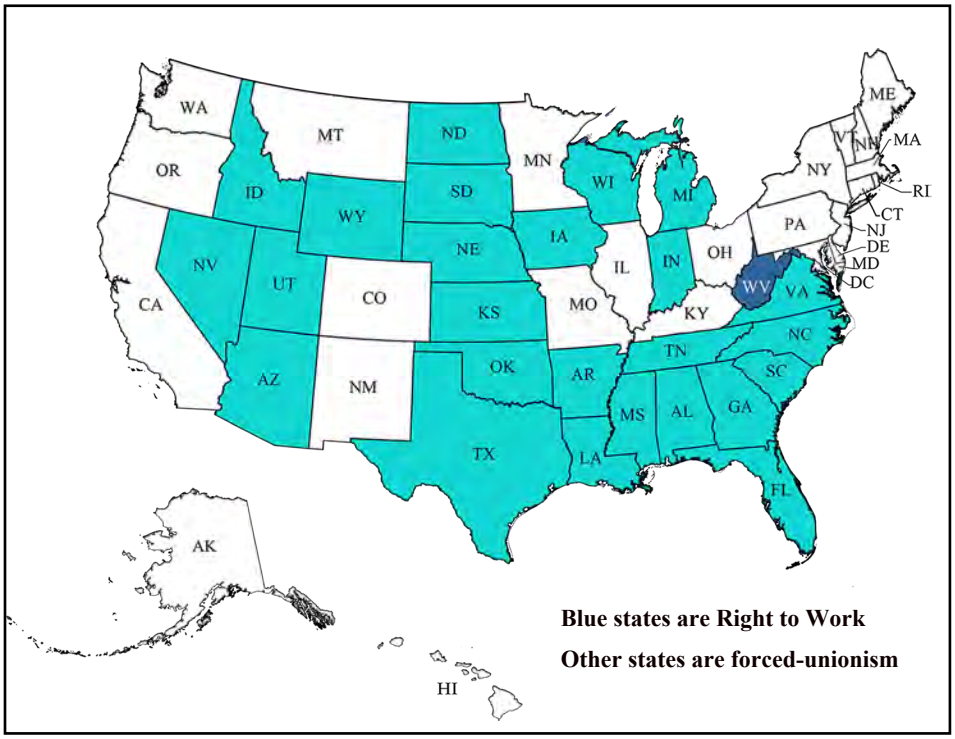
Over Past Four Years, Four States Have Barred Forced Union Dues

On February 12, pro-Right to Work West Virginia legislators overrode Big Labor Democrat Gov. Earl Ray Tomblin's veto to make the Mountain State the 26th to prohibit union officials from forcing employees to consent to fork over a portion of their paychecks in order to get or keep a job.

National Right to Work Committee President Mark Mix applauded the adoption by the fourth state in four years of a law that protects employees from being forced either to bankroll a union they would never join voluntarily, or face termination.

"Now, more than half the states have enacted Right to Work laws to uphold employees' fundamental right to freedom of association," said Mr. Mix.

Of course, Committee members will continue fighting until no workers, anywhere in America, can be forced to pay union dues or fees simply so they can keep their jobs and support their families.



CREDIT TO: BRITTANY TUCK

West Virginians who have fought hard for years to pass a law prohibiting compulsory union dues and fees carried the day on February 12. National Right to Work members and staff helped them prevail.

'Every Worker Has the Right To Pay Dues to a Union, But No Worker Should Be Forced'

On behalf of all National Right to Work Committee members, Mr. Mix offered his "warm congratulations to freedom-loving West Virginians and the elected officials who heeded their pleas to stand up to Big Labor."

Mr. Mix specifically mentioned state Senate Majority Leader Mitch Carmichael (R-Jackson), Senate President Bill Cole (R-Mercer), House Speaker Tim Armstead (R-Kanawha County), and Del. John Overington (R-Martinsburg). Mr. Overington has been the lead sponsor of Right to Work legislation in his chamber.

"The National Committee has for years been calling upon candidates in West Virginia to pledge 100% support for Right to Work, and giving encouragement and counsel to grass-roots citizens seeking to pass a state law revoking union officials' forced-dues and forced-fee privileges," Mr. Mix noted.

"Every worker has the right to pay dues to a union, but no worker should be forced. We have long foreseen and predicted passage of a West Virginia Right to Work law. But why did it happen as soon as it did?"

Mr. Mix suggested that one important reason for the sudden end to union lobbyists' ability to perpetuate forced dues and fees in a state that had long been a Big Labor stronghold was the extraordinarily heavy support for pro-Right to Work legislative candidates in 2014 by rank-and-file unionized employees.

West Virginia AFL-CIO Chief: 'Our Members Were Our Own Worst Enemy'

"In 2014," he recalled, "Mountain State voters elected a total of 37 members to their state House of Delegates who had pledged 100% support for Right to Work.

"Prior to the elections, just 16 of the

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Big Labor Bosses Defeated Again

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chamber's members had gone on record in full-fledged opposition to Big Labor monopoly bargaining and compulsory union dues.

"There was also a dramatic increase in pledged Right to Work support in the state Senate as a consequence of the 2014 elections."

Intensifying public disdain for union-label incumbents and challengers is a key reason why Right to Work supporters like Mr. Carmichael, Mr. Cole, and Mr. Armstead were able to assume the leadership positions of their respective chambers in early 2015 after previously serving in the minority.

And, as Washington *Post* reporter Lydia DePillis acknowledged in a February 19 article chronicling how West Virginia became the 26th Right to Work state, Mr. Carmichael, Mr. Cole, and Mr. Armstead "did it with the help of union votes."

Regarding rank-and-file support for candidates virulently opposed by Big Labor bosses, Ms. DePillis quoted Kenny Perdue, the head of the state AFL-CIO: "Our members were our own worst enemy."

Throughout 2014 and 2015, Big Labor's credibility in West Virginia continued to erode as the "War on Coal" waged by the Obama White House -- an administration union bosses had helped install -- contributed to plummeting production and layoffs in the state's mining sector.

National Committee Mobilized Right to Work Supporters Across the State

Finally, last November legislative leaders agreed the time was ripe to send a state Right to Work measure to Gov. Tomblin's desk.

The National Committee assisted with an e-mail mobilization of freedom-loving West Virginians that began soon after it was publicly announced on January 13 that the Senate Judiciary Committee would vote on S.B.1, legislation that would let workers choose for themselves whether to join or pay dues to a union.

The Committee's mobilization continued until Mr. Tomblin's veto was overridden by the Legislature roughly four weeks later. A total of 24,500 identified Right to Work supporters in West Virginia were contacted during the campaign, many of them multiple times.

And independently from such mobilization efforts, Right to Work's research affiliate, the National Institute for Labor Relations Research, supplied elected officials, journalists, policy organizations, and ordinary citizens with information advancing the moral and economic case for forced-dues abolition.

CREDIT TO: WV LEGISLATIVE PHOTOGRAPHY, PHOTO BY PERRY BENNETT

In January, Committee Vice President Greg Mourad told West Virginia delegates: "The collection of forced dues is so odious" that even its apologists can only "defend it on the basis of expediency, not principle."

Probably the most important contribution of all made by National Right to Work to freedom-loving West Virginians' victory was the Committee's work since 2003 in helping build legislative and public support for the 23rd state Right to Work law in Indiana.

Pro-Right to Work Hoosiers' Early 2012 Victory Set Off a Chain Reaction

"Roughly 13 years ago," pointed out Mr. Mix, "when few political observers considered expanding Right to Work protections to the Great Lakes region to be a serious possibility, a group of Hoosiers launched a determined effort to do precisely that in their home state.

"From the beginning, the National Committee assisted the efforts of these citizens and the organization they soon put into high gear, the Indiana Right to Work Committee.

"By early 2015, three years after the Indiana Right to Work law was signed in February 2012, two more Great Lakes states, Michigan and Wisconsin, had Right to Work laws on the books.

"Now a border state that, to quote the Washington *Post*, 'essentially gave birth to the modern [Organized Labor] movement' is the 26th Right to Work state. If West Virginia can do it, any state can."

'Right to Work Supporters Won't Rest on Their Laurels'

"Thanks to principled foes of compulsory unionism in West Virginia and their allies throughout the country, 48% of America's wage-and-salary employees now live in states with Right to Work protections," Mr. Mix continued.

"Just five years ago, only 40% of wage-and-salary employees across the U.S. were covered by Right to Work laws.

"It's a record of which the voluntary-unionism movement should be proud. But Right to Work supporters won't rest on their laurels.

"We won't be satisfied until all the employees in the country, private-sector and public-sector alike, have the right to keep their jobs without being forced to fork over union fees."

Right to Work: Rx for Slow-Growth West Virginia

History Indicates Forced-Dues Abolition Will Help Economy Rebound

Throughout the successful campaign they recently waged to push, with the assistance of freedom-loving grass-roots activists, a Right to Work measure through the West Virginia capitol, Mountain State legislative leaders emphasized the reform's potential economic impact.

For example, on January 21, shortly after a 17-16 majority of senators had voted in favor of Right to Work, Senate President Bill Cole (R-Mercer) issued a statement in which he declared:

"I believe this is a critical first step toward bringing about the kind of change in West Virginia that is desperately needed to jump start our struggling economy."

There is ample evidence indicating that Mr. Cole and other pro-Right to Work elected officials are right to believe that banning forced union dues and fees as a job condition will help West Virginia prosper.

CREDIT TO: WVNSTV.COM

West Virginia Senate President Bill Cole: Right to Work is "a critical first step toward bringing about the kind of change" that is "desperately needed to jump start our struggling economy."

Real Compensation Has Grown Nearly Twice as Fast in Right to Work States

For example, from 2004 to 2014, inflation-adjusted U.S. Commerce Department statistics show private nonfarm employee compensation (including wages, salaries, bonuses, and the cash value of benefits) grew by 15.5% in Right to Work states as a group.

By comparison, real private nonfarm employee compensation in both West Virginia alone and in forced-unionism states collectively grew by barely more than half as much.

Moreover, when states have transitioned from forced-unionism to Right to Work in the past, their workforces have again and again benefited from accelerated compensation growth relative to the national average.

National Right to Work Committee Vice President Greg Mourad cited the example of Oklahoma, where the individual employee's free choice to join and support a union financially, or refuse to do either, has been protected since September 2001.

Prior to Right to Work Adoption, Sooner Compensation Growth Lagged U.S. Average

"From 2001 to 2014, inflation-adjusted private nonfarm employee compensation in Oklahoma grew by 28.7%, or roughly triple the national average," noted Mr. Mourad.

"And Oklahoma's real private-sector compensation gain was well over double the aggregate percentage increase for the Sooner State's three non-Right to Work neighbors [Colorado, Missouri, and New Mexico].

"This marks a sharp contrast from Oklahoma's economic record in the 13 years before its Right to Work law took effect.

"From 1988 to 2001, real private-sector compensation growth in Oklahoma was six percentage points below the national average and 20 percentage points below the average for its forced-unionism neighbor states."

Fundamental Purpose of Right To Work Laws: Protecting Personal Freedom of Choice

Mr. Mourad added that scientific analyses such as a 2012 study coauthored by Oregon economists Eric Fruits, president of Economics International Corp., and Randall Pozdena, president of QuantEcon, Inc., offer more compelling evidence that state Right to Work laws actually help foster faster economic growth.

As Steve Buckstein, head of Oregon's Cascade institute, the group that commissioned the Fruits-Pozdena study, has noted, its results demonstrate that the Right to Work "actually contributes to more employment, higher incomes, more net in-migration of taxpaying households, and faster economic growth."

"Of course," Mr. Mourad cautioned, "West Virginia Right to Work supporters were never motivated solely by a desire to make their state more economically successful.

"The Right to Work is a matter of principle as well as economics.

"The fundamental purpose of laws prohibiting compulsory union membership and financial support is to protect the employee's personal freedom of choice.

"It's true Senate President Cole, Senate Majority Leader Mitch Carmichael [R-Ripley], and other pro-Right to Work elected officials have focused mostly on economics since they resolved to take on Big Labor's compulsory-unionism privileges late last fall.

"But I doubt very much that the years-long grass-roots drive to make West Virginia a Right to Work state would have succeeded had it not been driven primarily by moral concerns.

"As veteran public-policy strategist and Right to Work board member Morton Blackwell likes to say, "Moral outrage is the most powerful motivating force in politics."

Right to Work States Better For Homebuyers

Single-Unit Housing Authorizations Rare in Big Labor Strongholds

According to a nationwide survey conducted late last year by the National Association of Realtors (NAR), 95% of renters aged 34 and under want to own a home in the future.

Among renters of all ages, a still-hefty 83% desire to own a home.

The NAR also found that by far the most common reason offered by renters for why they haven't bought a house yet is that they can't afford one.

But fortunately, single-family housing is much more affordable in some regions of the country than in others.

And U.S. Bureau of the Census (BOC) data have long shown that making the transition from renter to homeowner is far less difficult in Right to Work states than in states where employees aren't protected from compulsory unionism.

Eleven States With Lowest Housing Authorization Rates All Lack Right to Work Laws

For example, the BOC's tracking of privately-owned, single-unit housing authorizations show that there were 3.02 permits for construction of privately-owned, single-unit houses per 1000 residents in the 25 Right to Work states as a group last year.

(Since West Virginia's Right to Work law was not adopted until last month, it is counted as a forced-unionism state here.)

That's well over double the average of 1.35 per 1000 residents in forced-unionism states.

"The correlation between state laws prohibiting forced union dues and fees as a condition of employment and single-unit housing authorizations is quite robust," said National Right to Work Committee Vice President Matthew Leen.

CREDIT TO: IRIS

In Right to Work states, annual single-unit housing permits per resident are over double the forced-dues average.

"Thirteen of the 15 states with the most authorizations of such housing are Right to Work states.

"But all of the 11 bottom-ranking states [Alaska, California, Connecticut, Illinois, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and West Virginia] were forced-unionism in 2015."

More Affordable Homes Just One of a Host of Right to Work Economic Advantages

"Of course," Mr. Leen added, "housing authorizations are only one of manifold pieces of evidence pointing to higher living standards and faster economic growth in Right to Work states."

As a second example, Mr. Leen cited the U.S. Commerce Department's Bureau of Economic Analysis (BEA) data for per capita disposable income in the 50 states for 2014, the latest year for which such statistics are currently available:

"Adjusted for regional cost-of-living differences according to an index calculated by the Missouri Economic Research and Information Center, a state government agency, the BEA data show an average per capita disposable income of $39,932 in Right to Work states.

"That's more than $1200 higher than the national average and nearly $2300 higher than the average for states that still lacked Right to Work protections for employees in 2014.

"The eight top-ranking states for cost of living-adjusted disposable income per capita [Kansas, Iowa, Nebraska, North Dakota, Oklahoma, Texas, Wyoming and Virginia] are all Right to Work."

Laws Help Raise Living Standards by Empowering Individual Employees

Mr. Leen continued: "There's no reason to be surprised by the fact that Right to Work states are more successful than forced-unionism states at helping their residents better provide for themselves and their families."

Right to Work laws, explained Mr. Leen, simply protect the freedom of employees to get and hold a job without forking over dues or fees to a union that is recognized as their "exclusive" (actually, monopoly) bargaining agent.

"Unless they are protected by a Right to Work law," he said, "independent-minded employees have no power to fight back against a greedy and tyrannical union boss by withholding their financial support.

"And when employees have no personal freedom of choice, union bosses have little incentive to tone down their class warfare.

"Employees are consequently far less likely to reach their full productive potential and reap the accompanying benefits.

"That's a key reason why single-unit housing authorizations, real, after-tax spendable incomes, and countless other economic indicators point to the fact that forced dues lower living standards."

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Will Kentucky Be the Next Right to Work State?

Bluegrass Ban on Forced Union Dues, Fees 'Only a Matter of Time'

Today, most longtime inhabitants of country music legend Merle Travis's home state undoubtedly still agree with him that K-E-N-T-U-C-K-Y "means paradise."

But despite its natural beauty and other charms, Kentucky has not for many years been a very good place for people who need a family-supporting job or are looking for a better one.

A closely related, but even more serious, problem is that Kentucky does not protect the individual employee's freedom to join and bankroll a union, or refuse to do either, without being fired as a consequence.

Fortunately, thanks to a policy change that is now on the horizon, it seems inevitable that, in the future, thousands and thousands of Kentuckians who would otherwise ultimately have to flee "paradise" in order to find good economic opportunities and personal freedom elsewhere will be able instead to stay put.

CREDIT TO: AP/TIMOTHY D. EASLEY

The resounding victory of strongly pro-Right to Work gubernatorial candidate Matt Bevin (pictured) over his Big Labor opponent last fall is just one sign that forced unionism's days are numbered in Kentucky.

Kentuckians Overwhelmingly Oppose Compulsory Unionism in Principle

In early 2016, compulsory unionism is hanging on in Kentucky, but only by a thread.

Scientific polls have for years shown that the vast majority of Kentuckians agree that the individual employee's freedom to join or not join a union should be equally protected under the law.

For example, a 2014 survey sponsored by WKYT-TV in Lexington, WHAS-TV in Louisville, and the principal newspapers in the same cities showed registered voters support Right to Work by a two-to-one margin.

And in last November's Bluegrass State gubernatorial election, 100% pro-Right to Work Republican Matt Bevin won a decisive 53%-44% victory over Big Labor Democrat Jack Conway.

Moreover, a majority of members of the state Senate are already on the record in favor of rolling back union officials' monopoly privileges.

The last bastion of support for the union hierarchy and a handful of allied special interests who favor the perpetuation of compulsory union dues in Kentucky is the state House of Representatives.

But Big Labor's lock-grip over this legislative chamber has clearly weakened over the past few years, and it could weaken further after the winners of four special elections scheduled for March 8, soon after this Newsletter edition goes to press, are seated.

"Union-label politicians can't explain away the fact that, over the past decade for which data are available, the average private-sector employment growth in Right to Work states was double Kentucky's anemic rate," said Mark Mix, president of the National Right to Work Committee.

"Nor can they justify forcing union nonmembers to bankroll an unwanted union as a job condition when even a Big Labor academic like Richard Rothstein of the Economic Policy Institute has conceded that 'exclusive' union contracts routinely 'reduc[e] pay of the most productive workers.'"

Misguided Tactics Could Potentially Delay Right To Work Victory For Years

"As the headline of a Bowling Green [Ky.] *Daily News* editorial last month correctly observed, Right to Work in the Bluegrass State is 'only a matter of time,'" Mr. Mix continued.

"But in order to avoid helping Big Labor cling to its special privileges potentially years longer than necessary, freedom-loving citizens must avoid a few pitfalls."

For example, in late 2014 and early 2015, 12 Kentucky counties adopted local ordinances prohibiting forced union dues and fees.

At the time, Committee staff quietly let Kentucky elected officials know that a federal court had ruled in 1990 that, under the 1947 Taft-Hartley Act, cities and localities may not protect private-sector employees' Right to Work. Committee staff also told Kentucky politicians it was very unlikely, a quarter-century later, that the federal judiciary would understand the law differently.

Early last month, Judge David Hale of the Western District of Kentucky did in fact reach the same basic conclusion as the federal court in New Mexico reached 26 years ago in *Local 1564 v. City of Clovis*.

According to Judge Hale, Taft-Hartley Section 14(b), which explicitly authorizes states and territories to enact Right to Work laws, is the "only exception" to federal "preemption in the field of labor relations, and it does not extend to counties or municipalities."

Mr. Mix commented: "While Hardin County, Ky., the respondent in the case, has already filed an appeal, it is extraordinarily unlikely a higher court will overrule Judge Hale.

"The genuine way to protect Kentucky employees' Right to Work is to pass a statewide ban on forced union dues and fees."

Big Labor Assailants 'Wore Steel Toe Boots'

Indiana Union Bosses Reportedly Led Attack on Church Building Site

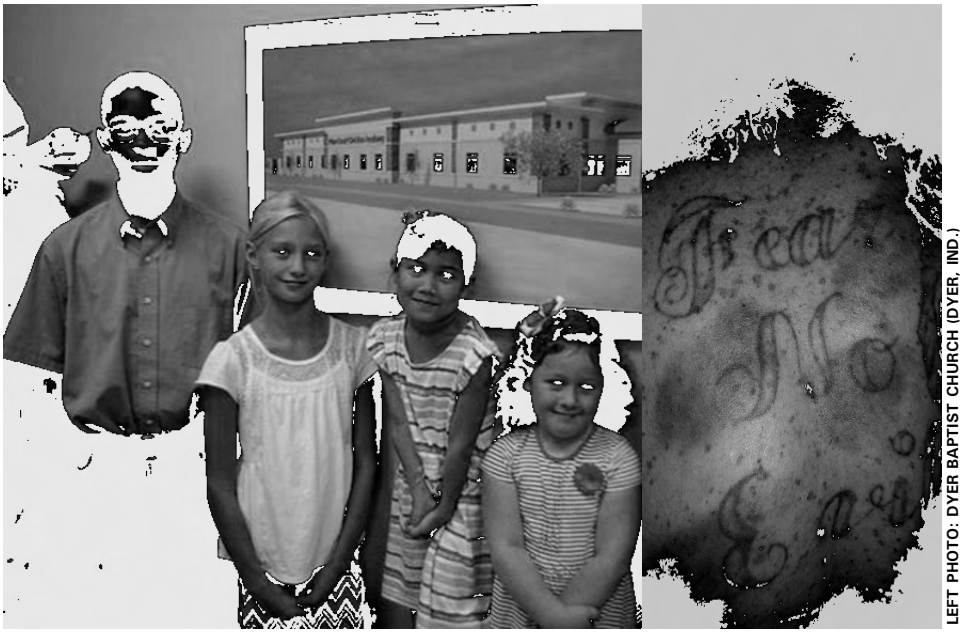
A lawsuit filed on February 12 charges that two officers of AFL-CIO-affiliated Iron Workers Local 395 led a January 7 assault on tradesmen employed at a church-owned construction site in northwestern Indiana.

According to a draft version of the complaint obtained by the National Right to Work Committee, one day before the assault occurred, Thomas Williamson Sr., a business agent for Local 395, intruded on the Lake County site where the Plum Creek Christian Academy (PCCA) is being expanded.

Mr. Williamson ignored an admonition from plaintiff Richard Lindner, who was then operating a crane on the site, to leave because he was interfering with business operations and trespassing.

Undeterred, Mr. Williamson proceeded to pressure Mr. Lindner, the president of the Cary, Ill.-based firm D5 Iron Works Inc. as well as an equipment operator, to convert his union-free project into a union-only one.

When Mr. Lindner refused, Mr. Williamson walked over to the school offices of the nearby Dyer Baptist Church, which runs the academy. There, Mr. Williamson pressured Co-Pastor Lee Atkinson to terminate D5's contract unless it kowtowed to Local 395 bigwigs.



LEFT PHOTO: DYER BAPTIST CHURCH (DYER, IND.)

In January, Indiana iron workers union bosses and militants wearing steel-toe boots reportedly left boot-shaped welt marks on the backs of union-free tradesmen who were helping expand a Christian school.

Screaming 'This Is 395's Territory!' Union Thugs 'Shattered' Tradesman's Jaw

Apparently, Mr. Williamson didn't like what he heard from the clergyman.

According to the draft indictment, at roughly 3 PM the following day, just as school was letting out, Mr. Williamson and his son Thomas Jr., who is Local 395's sergeant at arms, along with approximately 10 union militants, stormed the PCCA construction site.

After getting out of their vehicles, the Local 395 assault team reportedly grabbed pieces of construction wood and began attacking Mr. Lindner and his colleagues Scott Kudingo and Joe Weil, along with other people at the job site.

The assault on Scott Kudingo was the most brutal of all. Union goons "threw him to the ground" and commenced "clubbing, kicking and punching" him "in the face, arms, back and body."

As a consequence of the vicious attack, Mr. Kudingo's "jaw was shattered in part and broken in two other places." And at least some of the union goons who kicked him in the face and back are believed to have been wearing "steel toe boots."

All the while, the assailants screamed at Mr. Kudingo: "This is union work! This is 395's work! This is 395's territory! Don't come back!"

Fortunately, Mr. Lindner was able to escape by scaling a construction fence. He promptly contacted authorities.

Mr. Weil, on the other hand, did not get away. He was reportedly beaten with boards and "suffered injuries to his person, including but not limited to having a boot-shaped welt mark on his back."

Controversial 1973 Supreme Court Decision Makes It Hard to Prosecute Union Thugs

National Right to Work Committee Vice President Mary King noted that, as this Newsletter edition goes to press, it's been close to two months since the PCCA construction site incident, but no arrests have been made.

Moreover, no information is publicly available regarding the progress of the $3 million lawsuit filed last month against Local 395, the Williamsons, and their co-conspirators by the Center on National Labor Policy (CNLP) on behalf of Mr. Lindner, his company, and his colleagues.

"Because D5 Iron Works is based in Illinois, and the incident occurred in Indiana, Local 395 goons and union officials who aided them could potentially be prosecuted under the federal Hobbs Act, which prohibits the use of extortionate violence and threats in interstate commerce," said Ms. King.

"Unfortunately, 43 years ago the U.S. Supreme Court's *Enmons* decision exempted threats, vandalism and violence perpetrated to secure 'legitimate' union goals from Hobbs Act prosecutions.

"The *Enmons* loophole often makes it extraordinarily difficult to prosecute union thugs. And weak-kneed prosecutors may use this loophole as an excuse not to bring forward union-violence cases even when *Enmons* arguably isn't applicable.

"But Congress has the power to close the *Enmons* loophole. That's what S.62, introduced by U.S. Sen. David Vitter [R-La.], would do. This bill, otherwise known as the Freedom from Union Violence Act, would hold union officials who commit or foment extortionate violence to the same standard as anyone else who does the same."

The Committee is currently seeking more cosponsors and a roll-call floor vote for this important reform.

Labor Policy Ought to Be Consistent

Continued from page 8

creatively, that the law tacitly barred union bosses from using their "government-granted monopoly power to drive African Americans from the labor force," as George Mason University law professor David Bernstein has put it.

Unfortunately, as a practical matter, the *Steele* decision did little to stop Big Labor from using its monopoly-bargaining privileges to promote job discrimination against blacks and other racial minorities.

But *Steele* at least established that, whenever union bosses are "clothed with power" akin to that of legislators by a federal or state statute, Big Labor must be subject to constitutional constraints.

'Freedom Rests on Choice, And Where Choice Is Denied Freedom Is Destroyed'

National Right to Work Committee President Mark Mix commented:

"Under the *Steele* precedent, union officials clearly may not use their government-granted powers to trample the individual employee's 'freedom to engage in association for the advancement of beliefs and ideas.'

"In his opinion for a unanimous High Court in the 1958 *NAACP v. Alabama* case, Justice John Marshall Harlan insisted that such freedom is 'an inseparable aspect of the "liberty" assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech.'

"Moreover, as Judge Harlan emphasized, it is 'immaterial' whether the 'beliefs sought to be advanced by the association pertain to political, economic, religious or cultural matters, and state action which may have the effect of curtailing the freedom to associate is subject to the strictest scrutiny.'"

Since *NAACP v. Alabama* was handed down, federal courts have consistently interpreted this precedent as establishing that the individual has a constitutional right to join and support a union.

And once the federal court system recognized that the First and Fourteenth Amendments prohibit laws curtailing the personal right to join or support a union, the inevitable logical conclusion to draw was that the personal right not to join or support a union must be equally protected under the Constitution.

As early as 1966, then-U.S. Senate Minority Leader Everett Dirksen (R-Ill.) publicly emphasized the need for consistency in federal labor policy:

"[T]he right not to join a union is a necessary corollary of the right to join, for without a right not to join there can be no such thing as a right to join. Freedom rests on choice, and where choice is denied freedom is destroyed as well."

Legislators, and Not Only Judges, Have a Duty to Uphold the Constitution

"Very arguably," said Mr. Mix, "the federal imposition of monopoly bargaining in the NLRA and the RLA is in itself a violation of the freedom of association of workers who choose not to be union members, since it forces them to allow an unwanted union to negotiate their pay, benefits, and terms of employment.

"But even if government-imposed monopoly bargaining is not seen as directly violating the Constitution, there clearly is a violation when Big Labor wields this privilege to extract an agreement from an employer forcing independent-minded employees to join or pay dues or fees to a union as a job condition.

"To paraphrase *NAACP v. Alabama*, it is 'immaterial' whether the monopoly regimen union officials were able to establish because of state action forces nonmember employees to finance the propagation of 'political, economic, religious or cultural' views with which they disagree.

"Regardless, it is an infringement of the employees' First Amendment rights.

"Unfortunately, many people inside Washington, D.C.'s Beltway have a mistaken notion that only judges have a duty to uphold the Constitution.

"Of course, that's not the case. Every federal elected official has also taken an oath to protect the Constitution.

"If there are any members of Congress today who don't agree with *NAACP v. Alabama* or deny that it means there is a constitutional right to join a union, they should say so publicly.

"But all members of Congress who agree there is a constitutional right to join and financially support a union should also logically agree there is a constitutional right not to join or financially support a union.

"And that entails unabashed support for S.391 and H.R.612, pending national Right to Work measures that would block Big Labor from exploiting the NLRA or the RLA to force employees to pay union dues, or be fired."

CREDIT TO: DIRKSEN CENTER

"[T]he right not to join a union is a necessary corollary of the right to join, for without a right not to join there can be no such thing as a right to join." -- U.S. Sen. Everett Dirksen, *DePaul Law Review*, 1966.

Forced-Dues Abuses Spawned in U.S. Capitol

'Clothed With' Sovereign Power, Big Labor Tramples Free Speech

It is a truism regarding the First Amendment and other constitutional rights that only government can violate them.

In the words of eminent California law professor William Bennett Turner, the U.S. Constitution is "a series of constraints on the power of government, and government alone." That's why private citizens ordinarily cannot violate the Constitution.

However, more than seven decades ago, the U.S. Supreme Court ruled that union officials are indeed subject to "constitutional limitations" when they exercise their government-granted "exclusive" (monopoly) bargaining privileges over employees.

In federally regulated private-sector workplaces, it is primarily the privileges union officials receive via Section 9(a) of the National Labor Relations Act (NLRA) and Section 2, Fourth of the Railway Labor Act (RLA) that render those officials subject to constitutional constraints.

CREDIT TO: NATIONAL PHOTO COMPANY/LIBRARY OF CONGRESS

In 1944, then-Chief Justice Harlan Stone declared that, whenever union bosses obtain monopoly bargaining power under the auspices of government policy, that power must be "subject to constitutional limitations . . . ."

'The Federal Government, Not Any Private Party, Is The Source of the Coercion'

As Dr. Charles Baird, a noted labor-policy specialist, has explained, NLRA Section 9(a) and RLA Section 2, Fourth define specific conditions under which an employer must recognize a particular union as the "exclusive bargaining agent" for all the front-line workers in a business or other "bargaining unit."

Under the NLRA, the RLA, and other federal and state statutes with analogous provisions, Dr. Baird has written:

"A union . . . represents all the workers who voted for it, all the workers who voted against it, and all the workers who did not vote. . . .

"Where there is a certified union, individual employees are prohibited from representing themselves in matters having to do with wages and salaries and other terms and conditions of employment . . . .

"It is important to recognize that under the principle of exclusive representation, created by federal statute, the minority (all workers who did not vote in favor of the winning union) are put to a choice between submitting to the will of the majority . . . or losing their jobs. That is governmentally imposed coercion, pure and simple. . . .

"If an individual owns his own labor, and has a further right to enter into contracts with any willing buyer of that labor on terms that are mutually acceptable, then exclusive representation overrides those rights. . . .

"And since exclusive representation exists solely by virtue of federal statute, the federal government, not any private party, is the source of the coercion."

Union Bosses' Coercive Power Over Employees 'Not Unlike That of a Legislature'

More than 70 years ago, a unanimous U.S. Supreme Court concluded that, whenever union bosses obtain monopoly power to speak for all employees in a "bargaining unit" under the auspices of federal government policy, that power really must be "subject to constitutional limitations . . . ."

In his 1944 opinion for the court in *Steele v. Louisville & Nashville Railroad*, Chief Justice Harlan Stone found that, under RLA Section 2, Fourth, "a union is clothed with power not unlike that of a legislature . . . ."

Consequently, if the RLA actually permitted the forging of racially discriminatory contracts, as the railroad-company and union-boss respondents in the case contended, the statute would violate the Fifth Amendment rights of the employees who lost their jobs.

The *Steele* court allowed the RLA to stand only by concluding, somewhat

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