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Judicial War on Right to Work Escalates

Union-Boss Vow: High Court Will Hear Nationwide-Forced-Dues Case

In four lawsuits now pending in two different federal circuits and in the West Virginia and Wisconsin state court systems, union lawyers are making novel and audacious claims they hope will become a "doomsday" weapon against all statutory bans on compulsory union dues and fees.

National Right to Work President Mark Mix noted that the two federal lawsuits aiming to impose forced union fees nationwide are being advanced by Harvard professor Ben Sachs, a "go to" lawyer for the union hierarchy.

Mr. Sachs is being assisted by a legal team from San Francisco-based Altshuler Berzon, a favorite law firm for union bosses with plenty of forced-dues money at their disposal.

(National Right to Work Legal Defense Foundation attorneys have already submitted supporting briefs to defend state Right to Work laws in three of the four cases, and will soon do so in the fourth case.)

CREDIT TO: METRONEWS (CHARLESTON, W.VA.)/TWITTER

West Virginia AFL-CIO chief Kenny Perdue (right) admits rank-and-file unionists voted heavily to elect a pro-Right to Work Mountain State Legislature. But now he wants judges to overturn that Legislature's signal achievement.

After a String of Defeats in State Capitols, Big Labor Needs a 'Hail Mary' Play

"Even in light of the long record of the U.S. Supreme Court's and other federal courts' acceptance of far-fetched claims by union lawyers in order to uphold statutes authorizing monopolistic unionism," said Mr. Mix, "the Sachs litigation can only be regarded as a judicial 'Hail Mary' pass.

"Clearly, union officials have decided that a 'Hail Mary' play is what they need.

"Over the past four-and-a-half years, four states have enacted Right to Work laws. A majority of states now protect employees from forced unionism. National Right to Work Committee members helped lead the charge.

"Despite all of its forced union dues-derived wealth and political clout, Big Labor has become less and less effective at blocking Right to Work in the legislative arena in recent years."

Right to Work Laws Have Recently Been Passed in Heavily Industrial States

"Indiana, Michigan, Wisconsin, and West Virginia have approved Right to Work statutes over the course of just four years," Mr. Mix continued.

"And the first three of these are heavily industrialized states of the sort where Big Labor propaganda long claimed such laws could never be adopted.

"Moreover, several more states -- including Montana, Colorado, New Mexico, Missouri, Kentucky, Pennsylvania, and New Hampshire -- are now poised to prohibit compulsory union financial support over the course of the

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Union Lawyers Bare Their Swords

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next few years.

"Big Labor sees a chance to kill Right to Work before it is enacted in even more states. Naturally, union kingpins are jumping at the opportunity.

"Unfortunately for the union brass, the anti-Right to Work arguments Ben Sachs has concocted have never been persuasive.

"The constitutional 'reinterpretation' he advocates is possible only if the judiciary first accepts his and his allies' claim that the government-granted monopoly privilege to represent union members and nonmembers alike at the bargaining table is worth exactly *nothing* to Big Labor.

"Few if any disinterested observers of how union officials go about their business would concur."

Privileges Are 'Sufficient Compensation' For All of Big Labor's Purported 'Services'

"And just recently," observed Mr. Mix, "a major new and almost certainly unexpected problem for the Sachs team has emerged: Even President Barack Obama's National Labor Relations Board [NLRB] appointees are now on the record admitting union monopoly-bargaining privileges are a 'thing of value.'"

On March 30, the Obama NLRB ruled 3-0 that bosses of Local 720 of the International Alliance of Theatrical Stage Employees (IATSE) may not use the "exclusive" hiring hall they operate to discriminate against employees who live in a Right to Work state and exercise their freedom not to join or bankroll Local 720.

The *IATSE Local 720* ruling, in which Chairman Mark Pearce, an ex-union lawyer, and member Lauren McFerran, a protégé of retired Big Labor U.S. Sen. Tom Harkin (D-Iowa), participated, entirely upheld an earlier decision by NLRB Administrative Law Judge Kenneth Chu.

Judge Chu had explicitly recognized that Local 720 officials and other union bosses across the country gain a "thing of value by being allowed the power of exclusive representation over all employees in the bargaining unit whether the employees agree or not . . . ."

He further observed that "exclusive representation" vests a union with "comprehensive authority" over the "users" of a hiring hall, putting such users in a position of "dependence" on union officials.

The power and control Big Labor derives from monopoly-bargaining privileges, Judge Chu concluded, are "sufficient compensation" for any expenses union bosses might incur while wielding those privileges over employees in Right to Work states who exercise their legal prerogative not to join or bankroll an unwanted union.

Big Labor's Path to Judicial Victory Has Now Gotten Much More Steeply Uphill

"In short," said Mr. Mix, "Kenneth Chu and the three Obama-appointed NLRB members who fully concurred with his decision have told Ben Sachs and other union lawyers who are trying to destroy Right to Work laws that their 'legal foundation' is just sand.

"The path to forced-unionism victory in the judicial crusade against Right to Work laws has now gotten much more steeply uphill.

"But Dr. Sachs et al. and their Big Labor clients remain free, of course, simply to add *IATSE Local 720* to the host of other NLRB and federal court precedents that they insist must be overturned as they seek to impose forced union fees on employees nationwide.

"In fact, it's unlikely the opposition of normal allies like Mr. Pearce and Ms. McFerran will deter Big Labor from pursuing this battle to the bitter end."

Litigation Is 'Ultimately' Headed 'to the U.S. Supreme Court, Without Question'

Mr. Mix pointed out that Kenny Perdue, the head of the Mountain State AFL-CIO, is leading the effort to get the West Virginia Right to Work statute overturned even though he admits rank-and-file unionists heavily voted to elect the lawmakers who enacted it.

And Mr. Perdue's second-in-command, state AFL-CIO Secretary-Treasurer Josh Sword, defiantly told the Charleston (W.Va.) *Gazette-Mail* in late June that litigation attacking states' ability to pass Right to Work laws is "ultimately going to go to the U.S. Supreme Court, without question."

Mr. Mix concluded: "It seems it could be several years before the Ben Sachs-engineered judicial war on Right to Work laws finally winds down. But I am confident Right to Work supporters will ultimately prevail."

CREDIT TO: WWW.HELP.SENATE.GOV

The key argument union lawyers are now deploying in their bid to destroy all state Right to Work laws is so far-fetched that even Obama-appointed NLRB Chairman Mark Pearce couldn't see his way to endorsing it.

Union Bosses Target Pennsylvania GOP Senator

Big Labor Appeasement Tactic Not Viable For Republican Candidates

Top union officials in the Keystone State and nationwide are now revving up their forced-dues-fueled political machine for a ferocious campaign to unseat freshman U.S. Sen. Pat Toomey (R-Pa.), who is running for reelection this year.

No one should be surprised by the fact that Big Labor is planning to do everything it can get away with to elect Mr. Toomey's Democrat challenger, Katie McGinty, and dock workers who are forced to bankroll a union as a job condition for the vast majority of its expenses.

'We'll Have Literally Millions of Phone Calls, Leaflets, Door Knocks . . .'

Less than two years ago, Big Labor politician Harry Reid (D-Nev.) was dethroned from his perch as Senate majority leader after overwhelmingly pro-Right to Work voters ousted union-label senators like Mary Landrieu (D-La.) and Mark Pryor (D-Ark.) in the 2014 elections.

This fall, AFL-CIO czar Richard Trumka and his cohorts are determined to take back the reins of the Senate.

In March, Mr. Trumka boasted to Washington *Post* reporter Kelsey Snell about Big Labor's vast presidential-year electioneering efforts, funded primarily by union dues and fees forked over by workers on pain of losing their jobs:

"We'll have literally millions of phone calls, leaflets, door knocks, rallies and seminars."

Drawing on a variety of published sources, the National Institute for Labor Relations Research estimates that Big Labor spent roughly $1.7 billion on politics and lobbying in the 2014 elections.

Since the 2015-16 campaign cycle features an extraordinarily unpredictable presidential election, it's safe to assume union bosses will siphon off even more electioneering money from Big Labor's forced-dues treasuries than they did the last time around.

And the union hierarchy will be funneling a disproportionately large share of its forced-dues-fueled money and manpower into states with, in Ms. Snell's words, "competitive Senate battles," notably including Pennsylvania.

During His Successful 2010 Campaign, Mr. Toomey Vowed To Support Right to Work 100%

In fact, the Big Labor mobilization to unseat Mr. Toomey is so intense that, when Ms. McGinty made a quick afternoon campaign stop in Scranton on Wednesday, July 6, nearly two dozen union bosses seized the opportunity to meet with her.

Of course, union bigwigs were just as determined in 2010 to prevent Mr. Toomey from capturing the Senate seat then held by pro-forced-unionism politician Arlen Specter, since deceased, as they are to remove him from office now.

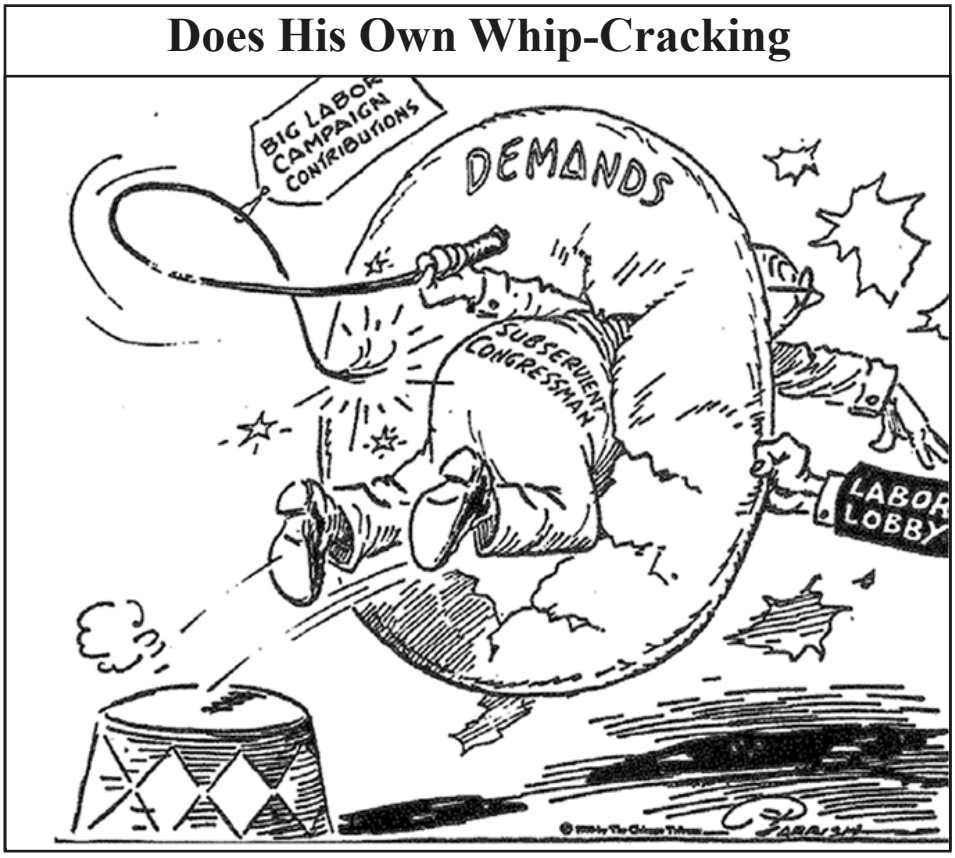
At that time, the GOP candidate refused to be intimidated. In response to his 2010 National Right to Work Committee survey, Mr. Toomey pledged across-the-board opposition to compulsory unionism. And he went on to defeat Big Labor Congressman Joe Sestak (D) by 80,000 votes in the fall election.

Yet oddly enough, this year Mr. Toomey's consultants seem to think they can dampen the union bosses' zeal to defeat him by swaying him to duck the forced-unionism issue altogether.

Scientific Poll: Pennsylvanians Back Right to Work by 3-1

This year the senator is refusing to answer his Right to Work candidate survey, and throughout the 2015-2016 Congress so far, he has refused to cosponsor S.391, the National Right to Work Act, a measure that would repeal all the current provisions in federal labor law that authorize forced union dues and fees.

"A 2013 scientific poll sponsored by the Harrisburg-based Lincoln Institute found Pennsylvanians support the Right to Work by a three-to-one margin," noted Committee Vice President Greg Mourad. "Instead of snubbing freedom-loving citizens in a fruitless bid to appease the union hierarchy, Mr. Toomey's campaign would do well now to court their support."



CREDIT TO: JOSEPH PARRISH/CHICAGO TRIBUNE

It's easy to understand why union-label politicians who rely on forced-dues contributions to remain in office would oppose a floor roll call on S.391. But why would Big Labor target Pat Toomey oppose one?

Self-Government Under Fire in Illinois

Big Labor Out to Hog-Tie Governor, Empower Unelected Arbitrators

For years, government union monopolists have been ripping off ordinary taxpayers in Illinois, a state where both private- and public-sector employees may be forced to pay Big Labor dues or fees as a job condition, in a host of ways.

Meanwhile, the Prairie State's economic performance has been abysmal.

From 2005 to 2015, for example, private-sector payroll employment in Illinois, as measured by the U.S. Labor Department, grew significantly less than half as much as the national average and less than 25% as much as the average for the 22 states that had Right to Work laws on the books for the whole period.

In November 2014, fed-up Illinoisans elected Republican Gov. Bruce Rauner, who promised to curtail government union kingpins' special privileges in order to get public compensation under control.

With the state effectively broke, Mr. Rauner has insisted the insanity of Big Labor-negotiated contracts that force taxpayers, for example, to spend $15,000 a year per member of the American Federation of State, County and Municipal Employees (AFSCME) union on health-care costs alone must come to an end.

In response, AFSCME and other union bosses are fighting furiously to pass a measure forfeiting the Illinois governor's negotiating powers to an unelected arbitrator whenever an "impasse" in contract talks is declared.

Aggregate Debt Burden For Forced-Dues States 25% Greater Than For Right to Work States

National Right to Work Committee President Mark Mix commented that data from the U.S. Census Bureau and the nonpartisan, Washington, D.C.-based Tax Foundation lend support to Bruce Rauner's view that monopolistic unionism is a key source of his state's chronic fiscal woes:

"As of 2013, the most recent year for which data are available, New York, Massachusetts, Alaska, Connecticut, Rhode Island, Illinois, New Jersey, Washington, California, Pennsylvania, Hawaii and Colorado were the 12 states with the greatest state and local per capita debt in absolute terms.

"Not one of these states protects the individual employee's Right to Work.

"Meanwhile, among the nine states with the least absolute debt per capita, eight -- Wyoming, Idaho, Mississippi, Arkansas, Oklahoma, North Carolina, Georgia and Tennessee -- have Right to Work laws prohibiting the termination of employees for refusal to join or pay dues or fees to an unwanted union. Forced-unionism Montana is the sole exception.

"In 2013, forced-unionism states collectively had a state-and-local government debt equivalent to 22.9% of their combined 2013 personal income as reported by the U.S. Commerce Department.

"That's a debt burden 25% greater than Right to Work states'."

'Control of Public Employees' Carries With It the Power to Bring the Public 'to Its Knees'

As the chief executive of a state in which Big Labor has a lock grip on both chambers of the Legislature, Bruce Rauner is very unlikely in the foreseeable future to get a chance to sign any statute rolling back union bosses' monopoly privileges.

Indeed, as this Newsletter edition goes to press Mr. Rauner remains embroiled in a battle to prevent taxpayers from losing the little power they currently wield, through their elected officials, over how public employees are compensated.

"In 2015 and again this spring," recalled Mr. Mix, "union-label legislators sent to the governor's desk a measure that would have required him to surrender his authority to negotiate with government union bosses to an unaccountable arbitrator whenever labor bureaucrats decided there was a bargaining 'impasse.'

"Fortunately, last year and again this year, Big Labor fell just a couple of votes short of overriding Mr. Rauner's veto and adopting a statue that would have significantly curtailed Illinoisans' ability to govern themselves.

"In a prophetic 1974 article for the *Wake Forest Law Review*, law professor Sylvester Petro, who has since passed away, warned about the threat to republicanism posed by monopolistic government unionism. Dr. Petro's words now ring truer than ever:

"'[T]he control of public employees . . . carries with it the power to bring' politicians 'to heel and the general public . . . to its knees.'"

States With the Most and the Least Government Debt Per Capita, 2013

Most Indebted		Least Indebted	
New York	$17,584	Wyoming	$3420
Massachusetts	$14,213	Idaho	$3645
Alaska	$13,039	Mississippi	$4724
Connecticut	$12,058	Arkansas	$4784
Rhode Island	$11,692	Oklahoma	$4899
Illinois	$11,536	Montana	$5231
New Jersey	$11,334	North Carolina	$5233
Washington	$11,084	Georgia	$5573
California	$10,941	Tennessee	$5667

☐ **Compulsory-Unionism States** ☐ **Right to Work States**

Wisconsin and West Virginia, where Right to Work laws were adopted in 2015 and 2016, respectively, are counted as forced-unionism here.

Sources: U.S. Census Bureau, Tax Foundation

The 26 states that still lacked Right to Work protections for employees in 2013 had an average per capita government debt of $10,918, or nearly $3500 higher than the average for Right to Work states.

Big Labor Culpable For 'Rust Belt' Woes

Metal Production Moves to 'More Efficient' Right to Work States

CREDIT TO: SCOTT BEVERIDGE/OBSERVER-REPORTER (WASHINGTON, PA.)/WWW.FLICKRIVER.COM

U.S. Commerce Department data testify to how Big Labor bosses' counterproductive work rules and relentless "hate-the-boss" class warfare played a major role in shriveling the "Rust Belt's" steel industry.

With Pennsylvania emerging as a possible "battleground" state in the fall 2016 presidential contest, the Trump and Clinton campaigns are both claiming they will, if elected, revive the fortunes of the former steel towns along the Monongahela River.

Economically depressed Monessen, located 35 miles south of Pittsburgh, is a notable example.

What went wrong in places like Monessen? Many pundits falsely assume their steel production facilities succumbed to foreign competition alone.

However, as a New York *Times* article published on Independence Day explained, the "mills in Monessen and other cities along the Monongohela [River] were replaced not by Chinese factories but by . . . more efficient factories in other parts of the country."

By 2014, Right to Work States' Share of U.S. Primary-Metals Output Had Risen to 52.6%

Citing an American Iron and Steel Institute publication, *Times* correspondent Binyamin Appelbaum pointed out that, last year, roughly 71% of the steel "used in the United States was made in the United States . . . ."

And data from the U.S. Commerce Department's Bureau of Economic Analysis (BEA) website show America's new metal manufacturing industry is located in states that, unlike Big Labor-controlled Pennsylvania, legally protect employees' freedom to work without being forced to join or bankroll a union.

As recently as 2004, according to the BEA, just 27.0% of America's $48.17 billion (in 2009 dollars) in primary-metals-manufacturing GDP emanated from the 22 states that then had Right to Work laws on the books.

By 2014, the most recent year for which state data are available, the entire U.S primary-metals-manufacturing GDP had risen to $49.12 billion, or slightly less than 2%.

And within just a decade, Right to Work states' share of all U.S. primary-metals output had risen to 52.6%!

Ten States With Steepest Declines in Primary-Metals GDP Are All Forced-Unionism

National Right to Work Committee Vice President Matthew Leen explained:

"Right to Work states' new dominance of metal-industry output and jobs is partly a consequence of the 2012 passage of Right to Work laws in two states, Indiana and Michigan, that are major producers.

"But that's far from the whole story. From 2004 to 2014, real primary-metals-manufacturing GDP in the 22 states that had Right to Work laws on the books for the whole decade rose by 23.1%, even as it fell by 13.5% in the 26 states that lacked Right to Work protections for the entire period.

"The 10 states with the steepest percentage declines -- California, Colorado, Delaware, Illinois, Maine, Maryland, Massachusetts, New Jersey, Rhode Island and Vermont -- are all forced-unionism. With a 13.0% drop, Pennsylvania fared worse than all but one of the 22 Right to Work states.

"The data strongly suggest Big Labor bosses' counterproductive work rules and relentless 'hate-the-boss' class warfare played a major role in the shriveling of the steel industry in states like Pennsylvania over the past few decades.

"And they also indicate Keystone State lawmakers today could help attract new job-creating businesses for their constituents by at last prohibiting forced union dues and fees as a condition of employment."

Forced Unionism vs. 'Equal Justice to All'

There Is 'No Constitutional Right to Work as a Non-Unionist'??

Polls have long shown that Americans overwhelmingly believe the personal right not to join a union is just as worthy of protection under the law as the right to join a union.

But for decades, top union bosses and their apologists have rejected this principled position.

And from time to time union spokesmen and their allies have been quite frank about their rejection of "equal justice to all," a concept first explicated, as far as we know, by the Ancient Greek statesman Pericles in the 5th Century B.C.

Constitutional Shields For Unionists and Non-Unionists Are 'in No Way Equivalent'??

Back in 1948, for example, the American Federation of Labor (AFL) union plaintiffs in the *Lincoln* case, who were trying to get state laws prohibiting compulsory union membership and dues declared unconstitutional, told the U.S. Supreme Court: "[T]he right to work as a non-unionist is in no way equivalent to or parallel of the right to work as a union member . . . .

"[T]here exists no constitutional right to work as a non-unionist on the one hand while the right to maintain employment free from discrimination because of union membership is constitutionally protected."

In *Lincoln Federal Labor Union v. North Carolina* (1949), Justice Hugo Black, speaking for a unanimous High Court, unceremoniously dismissed this argument.

But in recent decades an array of compulsory-unionism proponents have continued confidently to claim, in effect, that workers who favor unions should be first-class citizens, while workers who oppose unions should be second-class citizens.

Big Labor Sometimes Pays Lip Service to the Right Not to Join -- But That's All

In a 2002 book, for example, pro-union monopoly labor historian Nelson Lichtenstein charged that Right to Work laws represent "an ideological onslaught [against unions] of the first order . . . ."

How so? Under such laws, he complained, the rights of workers who oppose unionization are "given the same moral weight as those of workers loyal to the union idea"!

CREDIT TO: THE NEW PRESS

Prof. Lichtenstein: The rights of workers who oppose unionization shouldn't be given much "moral weight."

Even when union officials seem to contradict the AFL's *Lincoln* brief and Prof. Lichtenstein and pay lip service to the right not to join a union, in practice only a handful at most believe the law should equally protect the right to join and the right not to join a union.

The legal right not to join a union, union propaganda contends over and over again, is sufficiently protected if a worker who doesn't want a union can refrain from becoming a formal union member, but can't refuse, while keeping his job, to pay union dues or fees.

And these forced dues or fees may be equivalent to or nearly equivalent to what a voluntary union member pays.

No union official would say that a law allowing a worker to become a union member over the objections of his employer and fellow employees, but not allowing him to pay dues to the union he's joined, provides adequate protection for the right to join.

Yet Big Labor insists workers who prefer to remain union-free should be satisfied with only nominal legal protection for their choice.

'Those Who Deny Freedom To Others, Deserve It Not For Themselves'

National Right to Work Committee Vice President Mary King observed:

"Nearly 160 years ago, responding to a letter inviting him to a Boston event commemorating the birth of Thomas Jefferson, Abraham Lincoln wrote eloquently about the people of his time who treasured freedom for themselves while denying it to others.

"Of course, Lincoln's words were offered in immediate reference to supporters of chattel slavery, not compulsory unionism.

"No one contends that compulsory unionism is an evil as grave as slavery. Nonetheless, Lincoln's famous April 1859 letter to Henry Pierce seems relevant to the debate in our time over government-sponsored monopolistic unionism:

"'Those who deny freedom to others, deserve it not for themselves; and under a just God, can not long retain it.'"

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Zealotry Impresses Ms. Clinton

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firm for virtually any kind of assistance related to a unionization campaign, reams of paperwork are required.

The cost of hiring and retaining qualified staff to fill out complicated disclosure forms that most small businesses normally don't have to file will suffice to deter many from seeking any advice. And without expert advice, most will likely deem it prudent to go mute when union organizers call.

Case Charging That the Rule 'Violates Free Speech' Rights Is Likely to Succeed

But the rulings issued by U.S. District Judge Patrick Schiltz of Minnesota on June 22 and by Judge Cummings on June 27 are raising hopes for freedom-loving employees and their employers that Mr. Perez' scheme to expand Big Labor's monopoly-bargaining empire by bureaucratic edict won't succeed.

Judge Schiltz was responding to a challenge to the "persuader" rule brought forward by an association of law firms that represent and advise clients on labor and employment matters.

He found that the plaintiffs "have a strong likelihood of success on their claim that the new rule conflicts with the plain language of the LMRDA."

Despite reaching this conclusion, Judge Schiltz opted not to enjoin the "persuader" rule at this time.

But five days later, in his opinion regarding a case filed by the National Federation of Independent Businesses, Judge Cummings issued a nationwide injunction.

In explaining his decision to halt the rule, the Texas judge said he had concluded the plaintiffs would likely win their pending case that the rule "violates free speech and association rights protected by the First Amendment."

'Single-Party' Elections Have Never Been Acceptable In the United States

Moreover, there is a strong basis for contending the rule is "unconstitutionally vague in violation of the due process clause of the Fifth Amendment."

Mr. Mix commented:

"'Single-party' elections, in which the rules are rigged to ensure only one side's message gets heard, are regarded as normal under despotic governments in places like China and Cuba.

"But they have never been acceptable in America. Now is not the time to start."

Mr. Mix added that there is a real danger that the federal court system, despite the promising rulings by Judges Schiltz and Cummings, will ultimately fail to do its duty and block Tom Perez' unconstitutional scheme to help Big Labor drag more and more workers into unions from ever taking effect.

That's why the National Right to Work Committee stands ready, if necessary, to turn up the pressure on Congress to block enforcement of the "persuader" rule.

Hillary Clinton's 'Short-Listing' Of Tom Perez Illustrates Her Anti-Right to Work Extremism

By the time this edition of the National Right to Work Newsletter reaches its readers, they will already know whom Big Labor Democrat presidential candidate Hillary Clinton has chosen as her running mate.

But as this is written a few days prior to the opening of the Democratic National Convention, her choice is still up in the air, and it is being widely reported that Tom Perez is on her "short list" of potential running mates.

"The fact that Hillary Clinton is even thinking about sharing her ticket with a relatively obscure Obama Cabinet member who has never been elected to an office higher than the Montgomery County [Md.] Council seems odd at first," said Mr. Mix.

"But it isn't odd once you recognize that having cooked up a Big Labor-'friendly' rule that is, in the words of Judge Cummings, legally 'defective to its core' is a sign of commendable commitment to the cause of compulsory unionism, as far as Ms. Clinton is concerned.

"Regardless of whether or not she ultimately makes Mr. Perez the Democrats' candidate for Vice President, her obvious admiration for the man illustrates her extremism."

CREDIT TO: MSNBCMEDIA.MSN.COM

As then-Justice John Paul Stevens once wrote, federal labor law recognizes workers' "underlying right to receive information opposing unionization." But the Obama Labor Department has relentlessly pressed to gut that right.

Two Courts Rebuke Obama Labor Department

Judge: Rule Appears to Conflict With U.S. Code's 'Plain Language'

This summer, federal judges in courts located more than 1100 miles from one another sharply chastised Obama-appointed U.S. Labor Secretary Tom Perez for attempting, by bureaucratic fiat, to prevent employees from hearing all the key relevant facts before they are subjected to union monopoly control.

And one of these judges enjoined Mr. Perez and his Labor Department from proceeding to implement his rewrite of federal employee/employer-relations law.

A nationwide injunction is warranted, concluded Senior U.S. District Judge Sam Cummings in Lubbock, Texas, because the "scope of the irreparable injury" that would almost certainly result from enforcement of the so-called "persuader" rule is "national," and because the rule is "facially invalid."

CREDIT TO: NATI HARNIK/AP

In June, a Texas judge berated Labor Secretary Tom Perez for having concocted a pro-union boss rule that is legally "defective to its core." Hillary Clinton clearly finds Mr. Perez' eagerness to cut corners admirable.

Labor Secretary's Clear Intent Is to 'Control What Employees Hear'

There's no doubt about the pro-collectivization-of-employees bias of the National Labor Relations Act (NLRA) and the Railway Labor Act (RLA), the two federal statutes that together set the ground rules for unionization campaigns in well over 90% of America's private-sector workplaces.

The NLRA and the RLA set very modest conditions that union officials must meet before they acquire so-called "exclusive" representation power to negotiate the pay, benefits, and other terms of employment of all the workers in a group.

And once this power is granted it is almost impossible to remove. In fact, researchers drawing on published federal data estimate that only roughly 10% of today's unionized private-sector workers ever had a chance to vote on whether they wanted to be represented by a union.

But federal labor law does tacitly recognize that, when employees collectively decide whether or not they will be unionized, they have, as then-Justice John Paul Stevens put it in a 2008 majority opinion for the U.S. Supreme Court, an "underlying right to receive information opposing unionization."

National Right to Work Committee President Mark Mix commented:

"Tom Perez has long been trying to undermine the High Court's 7-2 ruling eight years ago in *Chamber of Commerce v. Brown*. His clear intent in promulgating his 'persuader' rule is to control what employees hear during a union organizing drive."

No Other Administration Has Adopted Obama Team's Twisted Reading of 1959 Law

Many employers whose employees are being urged to unionize believe their employees should have a chance to hear all the key relevant facts before they make a collective decision.

However, federal bureaucratic regulations and court decisions have for decades tightly limited what employers may say under such circumstances, despite the seemingly broad protection afforded by statutory law.

Unless they can receive expert legal advice, therefore, even employers who care a great deal about their employees' freedom may well opt to say nothing.

And that's exactly why Mr. Perez has relentlessly attacked employers' ability to receive such advice.

In April, the Labor Department finalized his "persuader" rule, which is designed to gut employees' right to hear both sides of the story regarding union representation.

Since the 1959 Labor Management Reporting and Disclosure Act (LMRDA) was adopted, every presidential administration has interpreted it to require employers to file extensive paperwork with the federal government regarding their labor consultants only if those consultants communicate directly with their employees.

Even the intensely pro-forced unionism Jimmy Carter and Bill Clinton Administrations never interpreted it to impose burdensome paperwork requirements on employers who only seek expert advice as they and/or their managers communicate with employees, orally or in writing, about what unionization could mean.

Cost of Hiring, Retaining Staff To Fill Out Disclosure Forms Too High For Many Small Firms

However, under the Obama Labor Department's new "persuader" rule, the LMRDA's "advice" exemption is effectively nullified.

If an employer hires any individual or

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