Foundation Action

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As the Nation Mourns, Big Labor Grabs Power

World War II shows how Big Labor uses national crises to expand reach

WASHINGTON, D.C. — Foundation President Reed Larson announced that the Foundation's legal team is prepared to fight the flood of abuses sure to stem from Big Labor's latest power grab.

Given the history of how Big Labor exploited the Second World War to expand dramatically its power over America's working men and women, it should come as no surprise that union bosses are up to their old tricks in the wake of the 2001 terrorist attacks.

As the World Trade Center and Pentagon still smoldered, union puppet U.S. Senators tried to force the nation's firefighters and policemen to accept union bosses as their exclusive workplace spokesmen. Meanwhile, the still-intact Clinton National Labor Relations Board (NLRB) issued numerous rulings expanding union coercive power.

"The Second World War showed us how Big Labor uses national crises as cover to grab more power while the nation's attention is diverted," said Larson. "Freedom now faces many new dangers."

As thanks for the recent heroism of police and firefighters, union bosses are now moving to take away their freedom.

Big Labor's World War II power grab

Before World War II, 20 percent of unionized employees were governed by contracts that required forced union dues payments as a condition of employment. By 1942, that percentage shot up to 60 percent, and by 1947 it was at 78 percent.

Of course, Big Labor's power grab was made possible by union puppet politicians in Washington, D.C., including President Franklin Roosevelt. It began in 1941 when the federal government became more deeply involved in key defense-related industries. Realizing that their leverage would increase due to the national crisis, union bosses instigated numerous violent and crippling strikes.

In one of the most notorious of these strikes, Mineworkers union bosses disrupted production in mines owned by steel firms (steel was, of course, central to the war effort). Union officials' chief demand was that all mining employees be forced to pay union dues as a condition of employment. When a federal agency recommended a settlement that did not include this requirement, Roosevelt turned the matter over to an "arbitrator" who, of course, ruled in the union's favor.

As more U.S. industries became enmeshed in war production, the Roosevelt administration repeatedly used so-called "labor peace" as an excuse to rope hundreds of thousands more individuals into compulsory unionism.

Toward that end, Roosevelt created the National War Labor Board (NWLB) and gave it authority over just about every industry in wartime America. In July 1942, the NWLB revealed its loyalty to union bosses in the *Little Steel* case when it prohibited workers from resigning their memberships for the entire length of a union's collective bargaining contract.

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Home Care Workers Challenge AFL-CIO's Newest Scam

State agency used to seize union dues from 80,000 independent care providers

LOS ANGELES, Calif. — Union bigwigs may lose one of their most lucrative government-subsidized organizing weapons thanks to a federal class-action lawsuit brought by Foundation attorneys on behalf of 80,000 independent home care providers who serve elderly and disabled citizens in Los Angeles County.

Veteran home care provider Janos Hummel is leading the challenge to a pernicious and increasingly widespread scam that uses government welfare agencies to arbitrarily classify private home care workers as "public employees" and then enables union officials to collect forced dues from their paychecks. His civil rights class action, served on the AFL-CIO-affiliated Service Employees International Union (SEIU) Local 434B as well as California's attorney general and other state and local officials, seeks to strike down the forced-dues scheme and restore home care workers' right to associate freely.

"Union chiefs devised this lucrative new scheme to raise money at the expense of taxpayers, disabled citizens, and especially those who care for them," said Stefan Gleason, Foundation Vice President. "This suit intends to thwart the AFL-CIO's illegal plan to use government force to unionize independent home care providers across America."

$20 million seized in Los Angeles alone

In 1999, SEIU Local 434B gained recognition by the Personal Assistance Services Council (PASC) of Los Angeles County as the exclusive bargaining agent of home care workers who provide non-medical in-home support services to disabled, low-income clients. Although the workers are reimbursed by the state on behalf of recipients who must qualify for the public entitlement, the workers are still independently hired, fired, supervised, and trained by individual home care recipients.

AP/Wide World Photos

Janos Hummel (right), a refugee from communism, thought he had left tyranny behind forever, until he met John Sweeney's AFL-CIO. If Sweeney's unionization scam isn't stopped, union officials will be able to rip off taxpayers for hundreds of millions of dollars.

Using changes to state and local law passed after the union lost a prior lawsuit on similar issues as cover, the constitutionally suspect scheme declares that home care providers are "public employees" for collective bargaining purposes *only*. It has no bearing on hiring, firing, supervision, work schedules, workplace safety, disputes with employers, or other basic terms of workers' employment. Workers must obtain their own insurance and must indemnify the state and county from any claims resulting from on-the-job acts.

Meanwhile, the agreement stipulates that PASC will automatically deduct union dues from home care workers' paychecks and hand the cash over to the union, to the tune of more than $1 million *per*

see **UNIONIZATION SCAM**, *page 7*

Foundation *Action*

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Suit Threatens Utah Unions' Monopoly Bargaining Power

State employees intervene to reclaim ultimate workplace freedom

SALT LAKE CITY, Utah — Even though Utah has a highly popular Right to Work law, many employees are still forced to accepted unwanted union "representation" under still-intact monopoly bargaining conditions in numerous government workplaces. But a coalition of Utah union bosses — which includes officials from the Utah AFL-CIO and the state's largest government unions — have jeopardized their prized monopoly bargaining power thanks to a lawsuit filed, ironically, by their own lawyers!

The multi-union lawsuit seeks to strike down a largely symbolic regulation passed by the Utah legislature that attempts to give voluntary union members the ability to withhold the payment of union dues for some political activities. (Of course, under Utah's Right to Work law, *nonmembers* needn't pay any dues whatsoever to a union.) Though Utah's Voluntary Contributions Act (VCA) explicitly leaves Big Labor's monopoly bargaining power intact, union officials' attempt to overturn the Act has opened the door for Foundation attorneys to challenge the constitutionality of Utah's monopoly bargaining law — the root of forced unionism in that state.

"Utah union bosses' overreaction to this easily avoidable union regulation may cost them their most cherished compulsory unionism privilege," said Foundation Vice President Stefan Gleason.

Monopoly bargaining fuels Big Labor's exploits

Monopoly bargaining, also known as "exclusive representation," is the power created by or tolerated by federal and state law that entrenches union officials as the exclusive bargaining agents of all employees in unionized workplaces. It gives union bosses a stranglehold over government personnel and policymaking.

Even in Right to Work states, these collectivist union bargaining schemes prohibit employees, regardless of union membership, from negotiating over the terms of their own employment and instead force workers to accept the rigid terms of union-negotiated contracts. Of course, the best and most productive workers are usually penalized by the "one size fits all" collective bargaining agreement.

Foundation attorneys are attacking Big Labor's monopoly bargaining privilege, the house of cards upon which forced unionism rests.

Monopoly bargaining is the root of forced unionism, and its existence predictably leads to massive abuse and corruption by union officials, including the funneling of union dues into radical politics and electioneering, crippling strikes, higher costs and unproductive work rules, and a myriad of other schemes. As the famous historian of liberty, Lord Action, once remarked, "power corrupts, and absolute power corrupts absolutely."

Cynical union lawyers plead for "free speech"

While Utah's Voluntary Contributions Act is well-intentioned, recent history shows that "paycheck protection" experiments in other states have proven to be totally ineffective or have flat out backfired (see "Paycheck Protection Regulations Raise False Hopes," Foundation *Action* May / June 2001).

Nevertheless, Utah union bosses — insulted by the legislature's attempt to regulate abuses that flow from monopoly bargaining — unleashed their high-priced lawyers. Shortly after Governor Mike Leavitt signed the Voluntary Contributions Act into law in March 2001, the Utah AFL-CIO, the Utah Education Association, and several other government unions filed suit to overturn the regulation, claiming that it violates unions' right to free speech and association.

A Utah judge granted the individual union members, receiving free legal aid from the National Right to Work Foundation, the right to intervene in opposition to their unions' suit. This allows the Foundation attorneys representing the employees, who include teachers and firefighters, to file briefs, be present at hearings, and make oral arguments.

Foundation attorneys turn the tables

Accordingly, Foundation attorneys have already filed arguments opposing the unions' request for a preliminary injunction to stop enforcement of the VCA. They argue that, under the system of monopoly bargaining, employees must give up their workplace voice in order to exercise their political freedom. That's because, under Utah law, only actual union members are allowed a vote on workplace issues that affect them — such as the election of union officers or the ratification of contracts that dictate the terms and conditions of employment. This often leaves employees who don't support the union's agenda but want a voice in the workplace with only one option — join the unwanted union.

see **UNION MONOPOLY**, *page 8*

Lockheed Employee Sues Union for Religious Discrimination

EEOC found that Machinists union officials harassed conscientious objector

ORLANDO, Fla. — After a federal agency ruled in his favor, a Lockheed Martin employee filed suit against International Association of Machinists (IAM) union officials, who threatened to have him fired from his job for exercising his right to refrain from supporting the union on religious grounds.

With the help of Foundation attorneys, Robert Beers, who works as an electrical technician at Lockheed Martin's Cape Canaveral Air Force Station facility, filed the religious discrimination lawsuit in the United States District Court for the Middle District of Florida against IAM Local 610.

"Machinists union bosses are arrogantly refusing to halt their harassment of this sincere conscientious objector," said Stefan Gleason, Vice President of the Foundation. "So they will now pay an ugly price."

Union's agenda clashed with religious convictions

Beers' sincerely held religious beliefs prevented him from supporting the union's militant ideological agenda. The 46-year-old Southern Baptist asserted his right as a religious objector under Title VII of the Civil Rights Act of 1964 to refrain from union activities and divert the payment of union dues to a mutually agreed-upon charity.

As Beers wrote in his objection letter to the union, "Biblically, homosexuality, abortion, and pornography…are examples of extreme ungodliness and misbehavior, and as a Christian I distance myself from them. As the IAM supports candidates and organizations that support these lifestyles, with dues paid by the workers, the conflict is so extreme, I cannot, in good faith and peace of mind, support the union."

After initially ignoring his objection, union bureaucrats eventually sent Beers a series of forms probing into his religious beliefs and personal life.

On "exclusive federal enclaves" such as Cape Canaveral, Florida, Right to Work laws do not apply.

"Union crusaders devised an intrusive and humiliating questionnaire in an attempt to intimidate Robert Beers into backing down from his principles," said Gleason.

Devoted father threatened with firing

Apparently much to the surprise of union officials, Beers answered all questions on the union's lengthy examination. Yet, in spite of his well-documented religious objection, union bosses bluntly wrote Beers they intended to have him fired from his job.

Fearing that Lockheed Martin management might buckle under to union demands, and desperately needing to keep his job in order to retain his health insurance coverage upon which his seriously ill son relied, Beers paid union dues under protest.

Foundation attorneys helped him file religious discrimination charges against the Machinists union in the fall of 2000 with the Equal Employment Opportunity Commission (EEOC). The EEOC found in his favor and attempted to persuade union officials to agree to a settlement. However, IAM Local 610's recalcitrant officials thumbed their noses at the EEOC offer and continued to oppose Beers' religious objection, forcing him to file suit in federal court.

Foundation attorneys are now seeking a permanent injunction forcing IAM Local 610 officials to honor Beers' religious objection and inform employees of their civil rights. Beers is also asking for the return of illegally seized union dues, punitive and compensatory damages, and attorneys' fees.

"Exclusive federal enclave" limits Right to Work protection

Even though Florida has a Right to Work law allowing employees to cut off all dues payments to unwanted unions, Cape Canaveral is considered an "exclusive federal enclave" which preempts state law. Thus, Beers had to rely on the more limited protections granted to religious objectors under the Civil Rights Act in order to avoid having to choose between keeping his job and keeping his conscience.

While Foundation attorneys often assist religious objectors who, like Beers, come from conservative Christian backgrounds, they help employees of many other faiths as well. The Foundation works to free union objectors, regardless of their religious or philosophical persuasions, from unwanted union affiliation to the full extent possible under current law.

Domino Sugar Workers Win Freedom from Forced Dues

Successful deauthorization election sends clear message to union bosses

NEW YORK, N.Y. — With the help of expert legal advice provided by Foundation attorneys, union-abused workers at a large Brooklyn sugar refinery voted 95-56 to strip International Longshoremen's Association (ILA) Local 1814 chiefs of their power to get workers fired for not paying union dues.

"When workers are given a real choice about how much power union bosses have over them, they tend to choose freedom," said Ray LaJeunesse, Vice President and Legal Director of the Foundation.

Union waged Big Apple's longest strike

Domino Sugar employee Mike Herron helped lead the effort for workplace freedom following a demoralizing 20-month strike. Several months into the strike, it became apparent to Herron that walking the picket line was serving no useful purpose. But militant union bosses insisted that the walkout must continue until Domino management gave in to all of their unreasonable demands.

NLRB General Counsel Arthur Rosenfeld, once thought to be a promising Bush nominee, dodged questions in a recent Congressional hearing.

Convinced that the company had put its best offers on the table and concerned about making ends meet, Herron and many other employees returned to their jobs. Union thugs retaliated by verbally harassing nonstrikers, publicly posting their names and addresses, and mailing threatening letters to their homes. Some workers were spat on.

When the strike — believed to be the longest in New York City history — finally ended in February 2001, ILA Local 1814 kingpins initiated a campaign of retaliation against those who had exercised their right to return to work. Union bosses imposed discriminatory fines, demanded arbitrary "back dues," and threatened to have workers terminated from their jobs.

According to Herron, union officials "would come into the plant and tell us we'd have to pay initiation fees and full dues" or be fired. "The union was not looking out for their members…the union leadership was only concerned about their salaries."

When asked, employees choose freedom

Herron refused to be intimidated by what he described as the union's blatant "scare tactics." He had learned through the Foundation's web site — www.nrtw.org — about his right under *Communications Workers v. Beck* to resign his union membership and halt the payment of union dues siphoned into politics and other activities unrelated to the union's collective bargaining costs. Herron then took it upon himself to counteract union officials' lies and misinformation by informing his colleagues about their rights. Thanks in part to his efforts, nearly 100 Domino employees became *Beck* objectors.

However, the union brass demanded that nonmembers pay an unaudited "reduced fee" that contained a meager 6 percent reduction from full dues, even though AFL-CIO-affiliated unions such as the ILA typically dump a much higher percentage of their membership dues into politics and the like.

At first, Foundation attorneys were preparing to file unfair labor practice charges with the National Labor Relations Board (NLRB). However, realizing that union bosses' underhanded tactics had caused such a large proportion of the Domino workforce to turn against the union, they instead recommended that Herron garner support for an NLRB-supervised deauthorization election to completely free employees from forced union dues. The rest is history.

Deauthorizations advance Right to Work principle

LaJeunesse stressed the importance of deauthorization elections in advancing the Foundation's goal of fighting compulsory unionism abuse. "Rather than attempting to recover the stolen loot, victorious deauthorization elections can prevent the theft in the first place."

Of course, deauthorization elections are not necessary when employees have the protection of a Right to Work law, because such laws prevent the imposition of a workplace requirement that employees pay union dues to an unwanted union in the first place. But in those jurisdictions where this precious protection does not exist, such as New York, the deauthorization election is an increasingly important tool for regaining a measure of employee freedom.

Freedom Under Fire

continued from cover

In spite of all the efforts to placate Big Labor, "labor peace" never did develop during the war. The number of strikes rose 26 percent in 1943, 32 percent in 1944, and declined by only 4 percent in 1945.

Union barons exploit terrorist attacks

True to form, union bosses are now using the horrifying attacks of September 11 as cover for their new march for power.

Only two days after the first strikes on America, union lobbyists convinced Democrat Senators Ted Kennedy and Hillary Clinton to ram a police and firefighter monopoly-bargaining bill through a closed-door Senate hearing without a single word of testimony. Later, they tried to sneak it past the U.S. Senate without a recorded vote. And in November, Big Labor-beholden senators attempted to push through the forced unionism legislation via an amendment to a spending bill.

Through these shameless maneuvers, Kennedy and Clinton sought to federally mandate that all state and local governments anoint union officials as the monopoly bargaining agents for local police, firefighters, paramedics, and other public safety officers — even in jurisdictions that have wisely banned this form of compulsory unionism.

"As the AFL-CIO admits, this legislation embodies the single largest expansion of union power considered by Congress in decades," said Larson.

Fortunately for the many dedicated public servants who don't want union officials to disrupt their important work, some senators spoke out against the monopoly bargaining scheme. "We appreciate our firemen and we appreciate our policemen, but forcing people to pay union dues is not a way to show appreciation," said Phil Gramm (R-TX).

Union boss: "We will be back, with a vengeance."

After the scheme was narrowly defeated, Harold Schaitberger, president of the AFL-CIO's International Association of Fire Fighters, vowed, "We will be back, with a vengeance."

Meanwhile, union bosses launched a wave of crippling strikes. As state officials scrambled to deal with health and security concerns, Minnesota union bosses ordered the largest government employee strike in that state's history. (Foundation attorneys were contacted by employees who were harassed for refusing to take part in the strike.) One Teamsters union official bragged that the 23,000-employee strike was "certainly going to help create some chaos."

Despite the war effort abroad, union officials even called a strike at a military tank manufacturing plant in Lima, Ohio.

Union shills in the U.S. Senate (above) are exploiting the national crisis to ram through new power grabs.

NLRB backs Big Labor's power grabs

Since the terrorist attacks, the Clinton-holdover NLRB has issued a host of outrageous rulings that have helped union chiefs amass even more power over America's workers.

In *Jacoby v. NLRB*, for example, the Board allowed union officials to use "negligence" as an excuse for preventing Joe Jacoby from getting a job due to him through an exclusive union hiring hall. Aside from a union, no other private organization or business is exempt from liability when its negligence causes financial harm.

Foundation attorneys have now appealed that and other recent NLRB rulings.

"Make no mistake — the Right to Work movement faces increasing danger in this time of national emergency," said Larson. "The Foundation must stand prepared to beat these new union power grabs in court."

Spotlight on...

Richard J. Clair
Staff Attorney, Corporate Counsel

The Foundation's legal team is fortunate to have a "utility player" who can be called upon to offer his expertise in virtually any situation. Such is the invaluable role Rich Clair has filled for 22 years.

As the Foundation's only Spanish-speaking Staff Attorney, Clair often assists the growing number of Hispanic workers fighting union abuses. For example, he has helped a number of California janitors slapped with exorbitant fines simply for working during union-ordered strikes.

In another case, Clair won a decision for 400 aircraft maintenance specialists whose right under Texas' Right to Work law to refrain from supporting the Machinists union was threatened because they worked on a federal enclave.

Clair is also the Foundation's Corporate Counsel. In that capacity, he provides advice on numerous legal aspects of the Foundation's operations and represents it when the organization itself is under legal attack.

Thanks in part to his efforts, the Foundation beat an attempt by hostile IRS bureaucrats to deny the Foundation's tax-exempt status as a 501(c)(3) organization. Now, more than 20 years later, the court's decision continues to allow Foundation supporters to make tax-deductible contributions to the legal aid and educational program.

Clair earned a B.A. in Spanish from Catholic University in 1972 and his J.D. from Loyola University School of Law in 1976.

Unionization Scam Rips Off Taxpayers and Workers Alike

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month. Interestingly, the slight increase in hourly rates for which the SEIU claims credit is nearly absorbed by the forced union dues deductions.

"They [union officials] take money without permission…it's like communism," said Hummel, who grew up in communist Hungary. "I didn't ask for their help. I don't want it. And I won't take it."

While the U.S. Supreme Court has tolerated some interference with employees' First Amendment rights for purposes of exclusive bargaining with employers, Foundation attorneys argue that no employment relationship exists between home care workers and PASC because the agency does not "control or direct" the provider's work or the "manner and method" in which the work is done. "Mere labels" cannot make it otherwise.

Therefore, Foundation attorneys are asking that the entire collective bargaining contract, as well as the union's ability to collect forced dues from independent home care providers, be revoked, and that all illegally seized union dues be returned to the plaintiffs.

Washington, Oregon succumb to similar scheme

The AFL-CIO boasts that the SEIU's capture of these 80,000 Los Angeles County home care workers was the "largest ever" unionization drive in the United States. Encouraged by this huge success, AFL-CIO top dog John Sweeney stated that unionization of home care workers is part of "a growing trend" that is enabling his empire to "charter new territory."

Indeed, Boss Sweeney is pushing the home care workers scheme in a growing number of other jurisdictions. Sacramento and San Diego counties and, more recently, Oregon and Washington state, have followed suit.

In Washington just last year, Big Labor pushed through an initiative that unionized home care workers by turning them into "state employees." SEIU union operatives secured the victory by spending more than $1 million on a carefully orchestrated propaganda campaign to promote the initiative. (The initiative's opponents spent just $6,000.)

"Union bosses continually unleash new tactics to expand compulsory unionism," said Gleason. "But our legal team is poised to oppose these schemes and defeat them in court."

Union Monopoly

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Therefore, the Foundation-represented employees argue, if the VCA regulation that attempts to remove this quandary is struck down as the unions are demanding, the court must declare that monopoly bargaining in Utah is unconstitutional.

Gleason stressed that raising this issue could be an important stepping stone toward ending forced unionism through the courts. "We will continue to bring forward cases that have the potential for state courts, and ultimately for the U.S. Supreme Court, to strike down Big Labor's monopoly bargaining privilege."

"When that day comes, the foundation of forced unionism will be laid to waste."

Union boss belittles state employees

Meanwhile, a Utah Education Association union boss belittled the courageous public school teachers who are fighting for their freedom. He quipped in an *Associated Press* wire story, "These people obviously don't understand the law. We've got something like 20,000 members, and not every one of them can be the sharpest tack. Apparently there are four of them."

"Though typical, that insulting statement makes crystal clear the contempt union bosses have for the people they claim to represent," concluded Gleason.

Free Newsletter

If you know others who would appreciate receiving Foundation *Action*, please provide us with their names and addresses. They'll begin receiving issues within weeks.

Message from Reed Larson

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

As Yogi Berra said, "It's not over 'til it's over."

But even then it's not always over — especially when Big Labor's power is threatened. That's the message from the recent victory of the Right to Work cause in Oklahoma.

As soon as the ink dried on Oklahoma's new constitutional amendment making it the nation's 22nd Right to Work state, union lawyers filed suit to overturn the popular mandate in the courts.

Of course, the Foundation immediately pledged to devote "all resources necessary" to defending the nation's newest Right to Work law. If Oklahoma's law is somehow overturned, every other Right to Work law could be in jeopardy. That's why I'll be keeping you informed of what happens in this crucial battle.

In this issue of Foundation *Action*, we highlight another important battle of the coming year — gunning down Big Labor's "largest organizing victory ever." This is actually a scheme to force 80,000 home care providers into compulsory unionism and dues deductions (even though these workers are hired, fired, and supervised by the individual care recipients).

Foundation attorneys have launched a federal class-action lawsuit defending the home care providers, who are mostly friends and family of the low-income and disabled citizens who qualify for public assistance.

Make no mistake — if the AFL-CIO succeeds with this cynical power grab, it will use it as a model to rip off home care providers — and taxpayers — around the country.

The union bosses don't care about helping home care workers, much less the disabled. They just want the money.

But with your continued support, the Foundation will work to stop this and other insidious union scams dead in their tracks.

Sincerely,

Reed Larson

Reed Larson