



Foundation Action

The bi-monthly newsletter
of the National Right to Work
Legal Defense Foundation, Inc.

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Appellate Court Upholds President Bush's Union Dues Directive

Union lawyers vow Supreme Court appeal

WASHINGTON, D.C. — In a victory for nearly 1.8 million workers who suffer under compulsory unionism, the U.S. Court of Appeals for the District of Columbia upheld President George W. Bush's Executive Order requiring federal contractors to post notices informing employees that they cannot be compelled formally to join a union or pay dues spent for partisan politics and other activities unrelated to collective bargaining.

The 2-1 ruling overturns an earlier ruling by the U.S. District Court for the District of Columbia that invalidated the President's common-sense Executive Order.

Foundation attorneys defended President Bush

In addition to winning the underlying Supreme Court decision upon which the Executive Order was based, Foundation attorneys actively defended Bush's directive by submitting *amicus curiae* briefs in the case. The National Right to Work Foundation also delivered over 100,000 signed



AP/Wide World Photo

Hopefully President Bush and newly elected Senator Saxby Chambliss (R-GA) will be encouraged by the court's ruling to fight even harder for workers who suffer under compulsory unionism.

grassroots petitions urging President Bush to defend his Executive Order from union attack.

"This ruling is a step toward informing employees they have the right not to be shaken down to pay for union political activities," stated Stefan Gleason, Vice President of the Foundation. "No worker should be fired for refusing to fund union political activities."

Workplace notices will inform employees of their rights

Signed on February 17, 2001, Executive Order 13201 would affect a certain segment of the 12 million American employees compelled to pay union dues to keep their jobs, informing them that they have certain rights under the Foundation-won Supreme Court decision in *Communications Workers v. Beck*. In April of 1992, President George W. Bush issued a similar Executive Order that was immediately revoked at the

request of union officials when President Clinton took office in 1993.

Additionally, the Clinton National Labor Relations Board (NLRB) stonewalled enforcement of the *Beck* decision, leaving many cases languishing within the bureaucracy for six or more years. Even to this day, the NLRB has failed to enforce the *Beck* decision aggressively.

In May 2001, a group of unions filed suit against the Bush Executive Order—a case known as *UAW-*

Labor Employment and Training Corporation et al. v. Chao et al. Then, in January 2002, Judge Henry H. Kennedy of the U. S. District Court for the District of Columbia enjoined

see **EXECUTIVE ORDER**, page 7

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Pennsylvania Union Officials Forced to Open Books

Local teacher union affiliates may not hide how forced union dues are spent

HARRISBURG, Penn. — In a long-running civil rights suit brought by Right to Work attorneys on behalf of a group of Pennsylvania teachers, the U.S. Third Circuit Court of Appeals ruled that local affiliates of the Pennsylvania State Education Association (PSEA) union must—regardless of their size—obtain an independent audit of their books to justify how teachers' compulsory union dues are spent.

The ruling came in a case brought in 1996 by Marsha Otto and six other non-union Pennsylvania teachers, who charged that union officials were illegally using their compulsory dues to pay for non-collective bargaining activities while refusing to provide meaningful financial disclosure.

"PSEA union lawyers have fought tooth and nail for years in order to keep teachers in the dark about how their forced dues are spent," said Mark Mix, President of the Foundation. "With this victory, Pennsylvania teachers will finally have an opportunity to hold the union hierarchy fully accountable."

Union officials refuse to provide audits

In a partial settlement at an earlier phase of the case, the teachers received a reduction in dues averaging 75 percent over the previous three school years. In that 1998 settlement, union officials agreed to return amounts spent for certain types of non-collective bargaining activity, but they still refused to agree to provide the independent audits required by U.S. Supreme Court rulings.

The actions of the teacher unions' officials violated the teachers' rights under the First and Fourteenth Amendments as established by the Foundation-won Supreme Court decisions *Abood v. Detroit Board of Education* and *Chicago Teachers Union*



Schoolteacher Marsha Otto courageously went to court to help her colleagues all across Pennsylvania.

v. Hudson. Under *Abood* and *Hudson*, teachers who exercise their right not to join a union cannot be legally forced to pay for union activities unrelated to collective bargaining—such as politics, organizing, public relations, and lobbying—and must be provided several pro-

cedural protections, including an audit.

Teachers remain burdened with union litigation

Though the Court of Appeals decision opens the financial record books of local PSEA union officials, the Court declined to relieve non-member teachers of bearing the costs of collective bargaining related litigation that occurs outside their own bargaining unit.

According to the ruling, non-members may be charged for such "extra-unit" litigation costs even if they arise out of negotiations for workers in other professions. Simply because the union hierarchy chooses to pool the monies of the different units for the purposes of such litigation, stated the Court, non-members may be compelled by the union hierarchy to pay for these activities with their forced dues as a condition of employment.

see **TEACHER UNION**, page 6

Foundation Action

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Reed Larson
Mark Mix
Stefan Gleason
Ray LaJeunesse, Jr.
Alicia Auerswald
Virginia Smith

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Union Bosses Exploit National Security Crisis

War concerns used as leverage to grab coercive power over Lockheed workers



Paul Joseph Brown/Seattle Post-Intelligencer

IAM union operatives have used strikes and work stoppages to exploit America's war-time needs and impose excessive demands.

FORT WORTH, Texas — In a callous and opportunistic move, International Association of Machinists and Aerospace Workers (IAM) union officials ordered a crippling strike and temporarily shut down war plane production to exploit America's national security concerns for their own gain.

Directly from the union playbook used during other periods of national crisis, the strike at Lockheed Martin's key Fort Worth facility threatened to halt production of the F/A-22 jet fighter, which will eventually replace the F-16 jet fighter.

By ordering a strike, IAM union officials forced many workers to put their allegiance to the union ahead of their employer and their country. In the past, workers that have defied the edicts of union bosses have been the victims of hefty fines, harassment, and bloody union violence.

Unfortunately, this is not the first time during the recent war on terrorism that union bosses have ordered strikes or other disruptions to seize more power. In March 2002, IAM union operatives also attempted to use strikes to halt production of the F-22 jet fighter and C130-J military transport planes, which were being used at the time by American forces in Afghanistan as part of the war on terrorism.

"True to form, Big Labor sought to exploit a national crisis to force

acceptance of their excessive demands," stated Stefan Gleason, Vice President of the National Right to Work Legal Defense Foundation. "This is a perfect example of why workers should be freed from government-backed forced unionism, which gives union bosses a virtual stranglehold over workers' jobs, the economy, and America's national security."

Union officials similarly exploit economic downturn

Just last year, International Longshore and Warehouse Union (ILWU) bosses orchestrated a massive shutdown of all West Coast ports—timed deliberately to coincide with the busy Christmas season. Using a variety of work slowdown tactics, including deliberately understaffing key operations and sending workers to jobs for which they were not qualified, ILWU officials made it impossible for the ports to function. Experts have estimated that the two-week shutdown of West Coast ports cost the American economy nearly \$2 billion each day.

During the dispute, ILWU officials implemented a plan to shove port-related jobs under union control at the port facilities, striking an agreement with the Pacific Maritime Association (PMA) that may cost more than thirty Utah-based non-union employees their jobs. While Utah workers enjoy the protections of a Right to Work law, ILWU union officials insisted that the jobs be moved to port facilities and placed under the control of union officials.

"They got together and voted our jobs away," said Sherry Goff, who is leading the legal battle with help from Foundation attorneys against the ILWU union hierarchy. "Historically, these have always been non-union jobs. We have voted down union representation in the past."

Hundreds of thousands corralled into forced unionism during WWII

Union officials have a long history of using national crises to expand their power and influence. During the Second World War, Big Labor waged 13,000 strikes and work stoppages mainly to impose forced unionism on hundreds of thousands of workers. By the end of World War II, more than 78 percent of unionized employees were governed by contracts that required them to pay union dues to keep their jobs, a fourfold increase.

In addition to the threat of strikes, union operatives have used the September 11th terrorist attacks to try to pass forced unionism legislation on Capitol Hill. In the days following the attack, union lobbyists and their supporters in public office put a bill on the fast track that would impose forced unionism on police and fire-fighters nationwide. So far, National Right to Work Committee lobbyists and their Congressional allies have defeated those efforts. Union officials have described the bill, which was passed out of Ted Kennedy's Senate Labor Committee on September 13, 2001, without so much as a hearing, as "the largest expansion of labor (union) rights considered by Congress in decades." ✚

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.

Reed Larson Honored For Lifetime Achievement

Award highlights pioneering work in anti-collectivist public interest law movement

NEW ORLEANS, La. — The Heritage Foundation, one of Washington's premier conservative think-tanks, honored National Right to Work Legal Defense Foundation President Reed Larson for his central role in pioneering the conservative public interest litigation movement—a movement that is now celebrating its 35th anniversary.

The National Right to Work Foundation was established in 1968. At that time, the only public interest legal aid organizations in existence were on the far-left side of the ideological spectrum.

The National Right to Work Committee, which was founded in 1955, for years had funded a number of lawsuits involving issues of compulsory unionism. However, because one of the Committee's primary functions is attempting to influence state and federal legislation, contributions to the Committee are not deductible on a contributor's income tax return.

Larson, then Executive Vice President of the Committee, realized that leftist legal aid organizations such as the NAACP Legal Defense and Education Fund, Inc. and the ACLU were using tax-deductible, charitable funds to shape public policy in the courts.

Right to Work led the way

Therefore, in 1968, the National Right to Work Committee Board authorized Larson to organize the Foundation as a 501(c)(3) charitable, legal aid organization, with articles of incorporation modeled on those of the NAACP Legal Defense Fund. This made it possible for the Right to Work movement to focus on legal battles on a full-time basis.

At first, the Foundation supported litigation through outside counsel. However, Larson and the Foundation's other officers soon realized that the Foundation's litigation program would be more effective if the Foundation had an in-house legal staff. Therefore, the



Courtesy of The Heritage Foundation

Foundation Vice President Ray LaJeunesse (left) accepted The Heritage Foundation's "Spirit of Justice" Award on behalf of Reed Larson from former U.S. Attorney General Ed Meese.

Foundation began hiring staff attorneys and law clerks in 1971.

Also in 1971, the United States Supreme Court issued its first decision in a case brought to that court by Foundation attorneys, *Street, Electric Railway & Motor Coach Employees v. Lockridge*. All this occurred before any other conservative or libertarian legal aid organization was established.

The Foundation now has eleven full-time attorneys on its staff. Under Reed Larson's leadership, since its founding in 1968, Foundation attorneys have directly represented approximately 20,000 workers victimized by compulsory unionism and assisted more than 315,000 workers in class actions.

Foundation attorneys have won or settled favorably nearly 2,000 cases in federal and state courts and administrative agencies.

These victories include six of the eleven cases decided by the United States Supreme Court that were briefed and

argued by Foundation attorneys. Among other precedents, these Foundation Supreme Court victories establish and enforce the principle that compulsory union dues and fees cannot lawfully be used for political, ideological, and other nonbargaining purposes. The most well-known and far-reaching of these landmark decisions is *Communications Workers v. Beck*.

As an early leader of the conservative public interest law movement, Larson also actively aided in the formation of several subsequent groups. In late 1972, the National Right to Work Foundation model as a public interest litigation organization caught the attention of individuals associated with the U.S. Chamber of Commerce. After carefully studying the already-successful organization and strategy of the National Right to Work Foundation, numerous other groups on the anti-collectivist side were founded beginning in 1973.

This 35-year-old conservative public interest litigation movement has had a tremendous impact in shaping public policy in a variety of ways. Without the formation of many impressive organiza-

tions to battle collectivism through strategic court action, Americans would long ago have lost numerous liberties that they currently enjoy.

The same weekend that Reed Larson received this lifetime achievement award, the National Right to Work Foundation's Board of Trustees approved Larson's leadership

succession plan and elected Mark A. Mix, previously the Foundation's Executive Vice President, as President of the Foundation. Reed Larson announces this passing of the baton in his personal letter which appears on the back page of this issue of *Foundation Action*. ✠

"American business and the enterprise system have been affected as much by the courts as by the executive and legislative branches of government."

— Justice Lewis F. Powell, Jr.,
United States Supreme Court

Hiring Hall Discriminated Against Non-Union Worker

Traditionally leftist court overturns Clinton-era NLRB decision

LAS VEGAS, Nev. — In response to a case brought by a Las Vegas-area worker, the U.S. Court of Appeals for the Ninth Circuit reversed a Clinton-era National Labor Relations Board (NLRB) decision that union officials can arbitrarily expel workers from an exclusive union hiring hall, deny them the ability to obtain work, and offer them no means of reinstatement.

The court's ruling comes in a case brought by Steven Lucas—argued by attorneys from the National Right to Work Foundation—challenging a 1999 NLRB ruling. The Board ruled that union officials from the International Alliance of Theatrical Stage Employees (IATSE) Local 720, had not committed unfair labor practice charges.

“Employees should not face arbitrary and vindictive tactics at the hands of union bosses when running their hiring hall monopolies,” said Ray LaJeunesse, Vice President and Legal Director of the Foundation. “Through their mistreatment of Lucas, union officials were sending a message to other employees that the union hierarchy rules the roost.”

Union officials deny worker job opportunities

Lucas was a union member from 1981-1992, and used the hiring hall until 1994, when union officials expelled him. By not allowing Lucas to be reinstated in the hiring hall under any circumstances, IATSE union officials denied him opportunities to work in the Las Vegas trade show and convention industry.

As a way of undermining highly

popular and effective Right to Work laws that free nonunion employees from paying membership dues to an unwanted union, union officials use their monopoly bargaining privileges to set up exclusive hiring halls. In such halls, the union hierarchy decides which employees to refer for work at construction jobs, conventions, and trade shows, and the workers must pay a hiring hall fee to be eligible for work.

“Though technically legal when operated in a non-discriminatory fashion, hiring halls allow union officials to maneuver around state Right to Work laws that are intended to protect workers from this very sort of abuse,” stated LaJeunesse. “The Ninth Circuit ruling is a modest step towards protecting workers’ rights within this corrupt system.”

Union hierarchy threatened to “kill” dissident workers

Unfortunately, Las Vegas is not the only place where union officials use hiring halls to harass employees. Exercising similar disregard for the state of Florida’s Right to Work law, IATSE Local 835 union officials face federal charges for illegally threatening to “kill” or otherwise harm workers who participated in efforts to toss out the union and later breaking a settlement agreement with the NLRB.

After investigating the unfair labor practice charges filed by James Zitis and Clay Wayman—who obtained free legal assistance from the Foundation—the NLRB investigators found that union officials had “threatened to kill employees” and “threatened employees with the loss of work opportunities



AP/Wide World Photo

Hiring halls help union bosses try to get around Nevada's popular Right to Work law to keep Las Vegas workers in the grip of compulsory unionism.

and the loss of their homes and possessions” if they engaged in activity to decertify the union through an NLRB-supervised election.

“Even in states where Right to Work protections exist, many workers still suffer intimidation at the hands of greedy union bosses,” stated LaJeunesse. “That is why we must be ever vigilant.” ✚

Newsclips Requested

The Foundation asks supporters to keep their eyes peeled for news items exposing the role union officials play in disruptive strikes, outrageous lobbying and political campaigning. Please clip any stories that appear in your local paper and mail them to:

NRTWLDF
Attention: Newsclip Appeal
8001 Braddock Road
Springfield, VA 22160



Teacher Union Coercive Power Stifles Reform

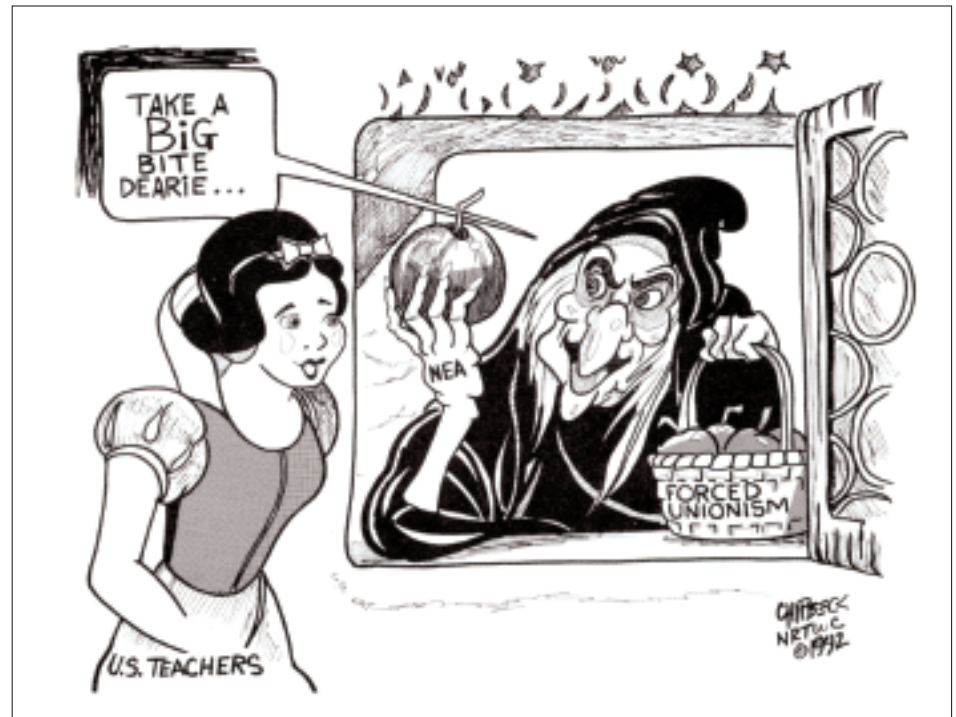
continued from page 2

“The court’s ruling shows that the best way to protect teachers from this kind of abuse is to end compulsory unionism altogether,” said Mix.

Forced dues fuel NEA’s radical agenda

As a result of their government-granted compulsory unionism privileges, the PSEA’s parent National Education Association (NEA) union has transformed itself into a political machine whose agenda has little to do with “the three R’s”.

In the 2002 election cycle, NEA PAC spending alone totaled over \$3.5 million, 91% of which union officials shelled out to Democrat party candidates. (Experts estimate that union officials often spend 10 times the reported contribution amount on forced-union-dues-funded in-kind electioneering activity.) The PSEA went even further in 2002, donating 100% of its PAC donations to Democrat candidates. The full amount of the teacher union’s political spending is not actually dis-



closed, because of reporting loopholes. However, it is estimated that the NEA spends as much as a third of its annual \$271 million budget on politics, lobbying, and other ideological activities.

Schools transformed into indoctrination clinics

The laundry list of NEA union ideological causes includes resolutions advocating a radical social agenda that supports publicly funded abortions on demand, special rights for homosexuals, a nuclear arms freeze, and U.S. participation in the United Nations International Court of Justice. Regardless of the merit of these positions, observers question why the union hierarchy spends its resources pushing for such causes totally unrelated to education policy or professional development.

“The teacher union hierarchy is all about politics—its officials can’t seem to resist supporting radical candidates and taking stands on hot-button political issues,” said Foundation Director of Legal Information Dan Cronin. “Teachers shouldn’t be forced to compromise their beliefs to do a job they love.”



Support your Foundation through Planned Giving

Planned Giving is a great way to support your National Right to Work Foundation. Some of the ways you can help the Foundation are:

- ✓ Remembering the Foundation in your Will
- ✓ Gifts of Stocks/Bonds
- ✓ Charitable Trusts
- ✓ Gifts of Appreciated Real Estate

For more information on the many ways you can ensure that your support of the Foundation continues, call the Foundation at (800)336-3600 or (703) 321-8510. Please ask to speak with Alicia Auerswald.

Spotlight on...

Mark Beutler
Staff Attorney



Since 1997, Foundation Staff Attorney Mark Beutler has battled Big Labor's agenda on numerous fronts. In pursuit of the Foundation's core mission, Beutler assists victims of union violence, defends religious objectors from abusive union officials, and helps workers reclaim forced union dues through class-action suits.

Among his chief accomplishments, Beutler successfully represented six autoparts workers in one of the most shocking recent instances of strike violence. During a United Auto Workers (UAW) union strike, union toughs shot out windows and vandalized cars, assaulted non-striking employees with autoparts, dumped a severed bloody cow's head on the hood of an employee's car, and even rigged a worker's machine with scalding hot wax.

Even Beutler's own car was vandalized during the course of the legal proceedings. Nevertheless, he thwarted the efforts of the union's high-paid lawyers and won the employees a successful monetary settlement.

Beutler came to the Foundation after practicing as an accountant and practicing private law. He earned his J.D. degree from the Seton Hall University School of Law after receiving a B.S. degree from the University of North Carolina-Chapel Hill, and an M.B.A. from the Florida Institute of Technology. Beutler also holds an L.L.M. degree from the Columbia University School of Law in New York. Beutler currently resides in McLean, Virginia, along with his wife Kathi, and their four children Jennifer, Sandra, Patricia, and Stephen.

Executive Order Helps Check Oppressive Labor Policy

continued from cover

implementation of the President's directive on the grounds that the action was preempted by congressional legislation—despite the fact that Bush's Executive Order only seeks to enforce the Supreme Court's interpretation of congressionally enacted law.

Union lawyers indicated that they will appeal the ruling to the U.S. Supreme Court or ask for a rehearing by the appellate court. Until the deadline for the appeal passes, the executive Order will not go into effect.

Confronting Big Labor proves winning strategy

The appellate court victory for President Bush comes on the heels of a

congressional election cycle which proved that confronting, rather than conceding, to the outlandish demands of union officials is a winning political strategy. In 2002, President Bush helped Republican candidates earn upset victories, and a majority in both houses, by bucking Senate Democrats' demands for union-boss special privileges at the newly formed Department of Homeland Security.

The resulting key victories in Senate races, particularly in Georgia and Missouri, indicate that Democrats took

a beating because the public judged that they were only interested in stonewalling the President's agenda in order to grab more coercive power for union bosses. For placing union-boss security over homeland security with knee-jerk votes to expand forced unionism, Senators Max Cleland (D-GA) and Jean Carnahan (D-MO) were subsequently kicked out of office.

"Bush administration strategists have hopefully learned the lesson that confronting union special privileges is the path to political victory," stated Gleason. ✚

"No worker should be fired for refusing to fund union political activities," stated Stefan Gleason, Vice President of the Foundation.



Special Message from Reed Larson

Executive Committee Chairman

To all the Right to Work Faithful:

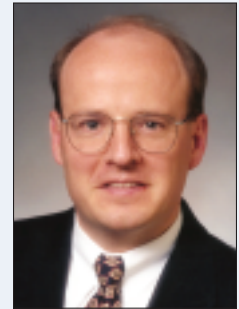
I have some important news to share with you—good news about the future of Right to Work!

After over forty-four years of heading the Right to Work organizations, it's time I handed off the leadership to someone else—and that someone is a person of outstanding dedication, capability, and experience.

At meetings held in recent days, the boards of The National Right to Work Committee and The National Right to Work Legal Defense Foundation accepted my recommendation that Mark Mix be named President and Chief Executive Officer of both organizations.

Mark has worked with me for seventeen years, beginning as a Right to Work field man and progressing through all levels of responsibility for the Committee, while working closely with the Foundation.

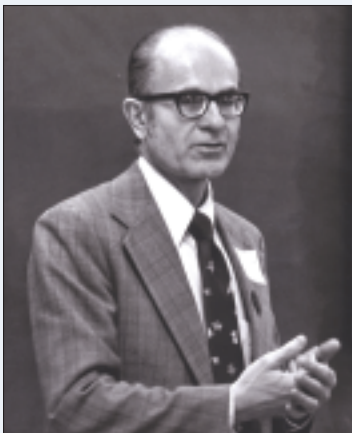
He has served as Executive Vice President for both the Committee and the Foundation this past year, and was Senior Vice President of the Committee for the two previous years. During that time, Mark has assumed a major role in directing all Right to Work programs.



Mark Mix

I know many of you are already acquainted with Mark. I'm sure you'll agree that he is the ideal choice to lead the Right to Work movement to even greater effectiveness and accomplishments.

I'm happy to report that there will be a continuing role for me to serve the Right to Work cause, so important to me and to the future of our country. As Chairman of the Executive Committee of both the Committee and Foundation, I will continue to be involved full-time in the work of both organizations, and will be doing everything I can to help Mark as he leads this movement to new levels of achievement.



Reed Larson formed the National Right to Work Foundation in 1968.

Mark will be assisted by other officers elected by the Boards this past weekend, including, for the Committee, John Tate, Vice President and Assistant Treasurer; Matthew Leen, Vice President; Stephen Goodrick, Vice President; and Doug Stafford, newly-elected Vice President. The Foundation also re-elected all its officers including Raymond LaJeunesse, Vice President & Legal Director; Stefan Gleason, Vice President and Assistant Treasurer; and Alicia Auerswald, Vice President.

It is a source of much satisfaction to me to know that the Right to Work movement is in such good hands.

Warm regards,

Reed Larson