

The New York Times

Steven Greenhouse. "Employers Sharply Criticize Shift in Unionizing Method to Cards From Elections." New York Times [New York, N.Y.] 11 Mar. 2006, Late Edition

Above the photographs of Fidel Castro, Kim Jong Il of North Korea and an American union president, the full-page advertisement contains a provocative quotation: "There is no reason to subject the workers to an election."

Below the photographs, the advertisement asks, "Who said it?"

For the answer, readers are directed to a Web site, which explains that those words were uttered by Bruce S. Raynor, the union president and the leader of Unite Here, which represents hotel, restaurant and apparel workers.

In seeking to equate Mr. Raynor with foreign dictators, the business-backed group that ran the advertisement was trying to discredit the most successful strategy that unions have used to try to reverse a decades-long slide in membership.

That strategy is known as card checks, a process in which companies grant union recognition once a majority of workers sign cards saying they favor a union. Unions increasingly want to use this procedure to replace the traditional organizing method: secret-ballot elections overseen by the National Labor Relations Board.

Many businesses oppose card checks because they say the procedure makes it much easier for unions to secure majority support, often giving management little chance to present its case against unionization. But unions say companies often prevent fair elections by firing and intimidating union supporters.

And, labor leaders complain, elections often become so contentious that nearly half the time unions win, companies fail to sign collective bargaining agreements. Card checks lead much more easily to contracts, union leaders say.

Card checks were used to sign up roughly 70 percent of the private-sector workers who joined unions last year, according to A.F.L.-C.I.O. officials. That compares with less than 5 percent two decades ago.

Through card checks, 150,000 private-sector workers joined unions in 2005. Over the past year, the procedure has been used to unionize 4,600 workers at the Wynn Las Vegas hotel-casino, 5,000 janitors in Houston and 16,500 workers at Cingular, the cellphone company.

In an interview this week, Mr. Raynor again maintained that it was better to use card checks than "to subject workers to an election."

"Under the National Labor Relations Act, the election process in the United States has turned into a meat grinder for workers," he said. "Each year 20,000 workers are fired or retaliated against for supporting a union." With unions pushing ever harder for card checks, Richard Berman, executive director of the Center for Union Facts, the group that ran the advertisement, said the time was right for business to mount an offensive against them.

"The fact is unions now say that as a general rule they don't want N.L.R.B. elections," Mr. Berman said.

Mr. Raynor's union is one of five that quit the A.F.L.-C.I.O. over the past year. Though the two camps disagree on many issues, the labor federation's leaders have called for using card checks instead of elections.

"Elections just don't work," said Stewart Acuff, the A.F.L.-C.I.O.'s organizing director. "The process is too broken."

A study last year by professors at the University of Illinois at Chicago found that during unionization elections, 30 percent of employers fire pro-union workers and 49 percent threaten to close work sites if workers unionize.

Critics of card checks say heavy-handed tactics are used in that process, too. Representative Charlie Norwood, Republican of Georgia, who is chairman of the House Subcommittee on Workforce Protections, is sponsoring legislation that would outlaw card checks. His bill has 81 co-sponsors.

"Union thugs are allowed to confront individual workers on the job and at their homes, and demand the worker sign a card giving the union exclusive rights to representation," Mr. Norwood wrote in an op-ed article in The Washington Times.

Union leaders say that coercion is rare.

The National Labor Relations Act gives private-sector workers the right to unionize through card checks or secret-ballot elections. But the act also gives employers the right to insist on elections. The act does not cover government employees.

Labor unions are backing a bill that would give unions the right to use card checks while taking away the right of companies to insist on secret-ballot elections.

The bill has 210 co-sponsors in the House and 42 in the Senate. But even supporters say it will probably not pass in this Congress because President Bush is likely to veto it.

Meanwhile, unions are using various tactics to persuade companies to accept card checks and are also increasingly pressing employers to pledge not to fight unionization efforts.

Sometimes unions use contract negotiations at one operation -- perhaps agreeing to productivity measures -- to get a company to agree to card checks at its other sites. More often, unions undertake confrontational campaigns to squeeze employers to agree to card checks.

To pressure Cintas, the giant uniform and laundry company, Unite Here has encouraged workers to bring lawsuits alleging pay violations and racial and sexual discrimination. Cintas has not given in, insisting that secret-ballot elections are fairer.

At the Consolidated Biscuit bakery in McComb, Ohio, Bill Lawhorn said more than 70 percent of the workers had signed cards in favor of joining the Bakery, Confectionery, Tobacco Workers and Grain Millers Union when he led efforts to form a union in 2002.

Nonetheless, the union lost a secret-ballot election, 485 to 286, after Consolidated Biscuit conducted a vigorous anti-union campaign. Two years later a National Labor Relations Board judge found that managers had illegally spied on union supporters and had warned them that the bakery would go bankrupt if a union was voted in.

Mr. Lawhorn was fired the day after the unionization vote. The labor board judge ordered him and six other workers reinstated, ruling that they were illegally fired for supporting a union.

The bakery has appealed. Mr. Lawhorn remains unemployed, hoping the appeal process will uphold his reinstatement.

"What they did here was un-American," he said. "If we had card check, we'd have a union right now."

To support the fight against card checks, the United States Chamber of Commerce has established a Web site, secretballotprotection.com, that criticizes the process and praises elections as more democratic.

Randel Johnson, the chamber's vice president for labor, immigration and employee benefits, said card checks usually did not give workers a chance to hear about the downside of unions.

"If the unions think the law gives employers too much free rein to fight unions, that's a separate issue and a separate debate," he said. "That's not a reason to replace the fairest process, secret-ballot elections."

Mr. Raynor sees it differently.

"A worker can join a church or synagogue or the Republican Party by signing a card," Mr. Raynor said. "That's how people join organizations in the United States. The idea that workers can't join a union by signing their name is ludicrous."

[Photograph]

Bill Lawhorn was fired from a bakery in McComb, Ohio, after leading a unionization campaign there; the union lost a secret-ballot election. (Photo by J.D. Pooley for The New York Times)