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242 | Labor Unions and Political Reform

By Reed Larson



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Labor Unions and Political Reform: Implementing the *Beck* Decision

By Reed Larson

In 1935, as part of the wave of legislative experiments spawned by the depression era, Congress passed the National Labor Relations Act, giving us a national labor policy which continues today, unchanged in most important respects. That policy is based on the premise that the public interest is best served by having employees organized into labor unions.

Prominent legal scholars have long recognized this phenomenon. None stated it better than the late Dr. Roscoe Pound, the distinguished former Dean of the Harvard University law school. He decried “the substantially general privileges and immunities of labor unions and their members and officials to commit wrongs to person and property, to interfere with the use of highways, to break contracts, to deprive individuals of the means of earning a livelihood...and to misuse trust funds, things which no one else can do with impunity. The labor leader and the labor union now stand where the king and government and landowner and charity and husband and father stood at common law.”

Writing in his book, *The Constitution of Liberty*, Nobel Laureate Friedrich von Hayek put it this way, “...we have now reached a state where [unions] have become uniquely privileged institutions to which the general rules of law do not apply. They have become the only important instance in which governments signally fail in their prime function – the prevention of coercion and violence.”

Despite the special privileges and immunities conferred on union organizers by this policy and by other government action, there has recently been some decline in private sector union membership. Much of that decline is due, ironically, to the response of market forces to the efficiency-destroying nature of union monopoly power. Millions of jobs – and thus, potential union dues-payers – have disappeared or been driven overseas in the very industries which were the most fertile fields for union organizers.

However, while the economic impact of government-granted union coercive power may be somewhat self-limiting, the impact on our elective process continues severely to distort our political system in a way which is damaging to the interest of most Americans.

Subordinating Individual Rights. Because the national labor policy is designed to accomplish the supposedly worthwhile public purpose of encouraging unionization of employees, individual rights are, in many ways, subordinated to the interests of the collective – the labor union. The most significant right thus sacrificed is the right of employees to decide for themselves which political candidates and causes they will support. This law has deprived millions of Americans of one of their most fundamental civil liberties.

In the 54 years since the enactment of the NLRA, union officials have extracted literally hundreds of billions of dues dollars as a condition of employment from the paychecks of America’s working people. They have then used much of that money to promote policies

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which are damaging to productive efficiency and to add to the special privileges and powers already granted them under the law.

Nobody has summed up the NLRA's impact better than the late Glen Watts, himself a top union official. This former president of the Communication Workers of America declared, "We in CWA have influence in this country, in every conceivable way, out of all proportion to our numbers."

Restoring Balance. I can report to you today that, while the disproportionate political power of left-leaning union officials is indeed exactly that described by Mr. Watts, we have now forged the tools with which we can restore some equity and balance in our political system. Last year's *Beck* decision by the U.S. Supreme Court is the capstone in a series of three landmark decisions – *Ellis*, *Hudson*, and *Beck* – that provides the means of wresting this damaging concentration of political power from the hands of the officials of Big Labor.

In a series of Right to Work Foundation-supported cases dating all the way back to 1969, and fought intensively at every level of the legal system, the court has held at last that protesting employees can no longer be compelled as a condition of employment to pay the union any more than the actual cost of collective bargaining – which cost union officials must prove in a court of law.

But even though these landmark changes wrought by the Supreme Court came down in 1984, 1986, and 1988, the big task of implementing those changes is still ahead of us.

The significance of these court victories reaches far beyond the fifteen million Americans who are compelled to pay union dues as a condition of employment. They provide the means at last for curbing the inordinate political power of union officials.

Not only have union officials wielded this power gained from government-granted coercive privileges against the interests of the general public, but they have consistently used that power in direct contravention of the wishes and interests of the very working people who are compelled as a condition of employment to foot the bill.

Union Monopoly. At this point let me give you a very short review of how the national labor law – the NLRA and the Railway Labor Act – works. The law provides that, when a labor union can show in one of a variety of ways that it represents a majority of employees in a bargaining unit, it is granted monopoly status by the federal government. That union becomes the sole bargaining agent for all employees, including those who want nothing to do with the union.

The employer is then compelled by law to bargain with the union over a wide range of issues, including the requirement that all employees pay dues to the union or be fired. Only employees in Right to Work states who are covered by the NLRA are protected from being fired for non-payment of union dues. If an employer finds it is in his interest to agree to a compulsory unionism provision – either because the union has offered him attractive concessions in exchange, or possibly because he believes his business would be destroyed by resisting the union demand – he then becomes the enforcer of the union's compulsory dues requirement.

We need to recognize that the pro-socialist policies advanced by union officials using their multi-billion dollar forced-dues resources do not reflect the views of America's working people, including most of those who are compelled to pay in order to keep their jobs.

Let me give you just three examples. A 1980 poll by the AFL-CIO of its members showed that 65 percent favored a constitutional amendment requiring a balanced budget. But keeping taxes low doesn't please union officials. Like all liberals, union bosses always seem to come down on the side of more taxes and more government regulation.

In 1982, just two years after this poll showed overwhelming union member support for the balanced budget amendment, the union, according to its official *AFL-CIO News*, claimed full credit for killing that measure in Congress. It explained that the amendment passed the Senate with votes to spare, "causing an alarmed trade union movement to mobilize an emergency grassroots campaign in the House."

Anti-Defense Officials. That same poll of AFL-CIO members showed that 72 percent of union members are strongly pro-defense – that is, they oppose cuts in defense spending. Yet the union political machine – decisive in the outcome of many races for Congress – was deployed by union officials almost entirely to elect members of Congress who voted consistently to weaken national defense, not strengthen it. In fact, that group of House members who, according to National Journal's *Almanac of American Politics*, rated zero on the National Security Index – that is, they never missed an opportunity to vote against defense – received more than eight times as much union support per member as those who voted consistently pro-defense, and were rated 100 percent on the National Security Index.

That same poll in 1980 found that 60 percent of union members opposed ratification of the Panama Canal Treaty, an issue which is back in the news today because of the current troubles in Panama. Yet, just a couple of years before that poll, the AFL-CIO executive council had provided decisive support to Jimmy Carter's failing effort to win Senate approval of his plan to give the Canal to the country ruled by the man who, shortly thereafter, handed control to dictator Noriega. As *Congressional Quarterly* reported, "The AFL-CIO executive council became the first major U.S. organization to support the treaty... giving President Carter an important ally in his uphill quest for...Senate ratification of the pact." The treaty was adopted with just one vote to spare.

Injustice to Workers. Let me remind you again that my point here is that this injustice to America's working people and the resultant damage it imposes on our political system is a direct outgrowth of federal law. The political power so disastrously misused by the union hierarchy – power which union officials themselves describe as out of all proportion to union numbers – grows directly from the federally-sanctioned privilege of compelling millions of Americans to accept union representation they do not want and then pay literally billions of dollars into union treasuries in order to earn a living.

Much is being written today about the supposed decline of organized labor, about its weakness, its disappearance from the scene as a factor of American life. Insofar as political influence is concerned, the facts just don't bear that out. It is true that the ability of organized labor to impose its will on employers and employees in collective bargaining appears to be slipping. The fact that union organizers are now winning fewer than half of the representation elections they initiate, including such stunning, high profile setbacks as last summer's defeat at Nissan Corporation in Tennessee, can lead to some dangerously erroneous conclusions concerning union impact on public policy.

Barron's editor Robert Bleiberg summed it up when he wrote just three months ago, "Even as organized labor loses economic ground, its political clout perversely continues to mount."

There are two primary reasons. First and foremost, in just five letters, the most important answer is – MONEY. M-O-N-E-Y, and the hired manpower and organization it can buy. This supposedly weak and impotent union movement continues to rake in more and more money each year. Its total income is now over \$9 billion a year, at least \$5 billion of which comes from employees who will be fired if they refuse to pay those dues. \$5 billion a year in compulsory dues.

It's the \$5 billion which provides the political clout. Much of it is channeled into unseen, unreported, in-kind political activity – to pay for those mislabeled “volunteers” which organized labor pours into political campaigns by the hundreds of thousands at every level. That, of course, is what we call “soft money,” totaling an estimated \$350 million – ten times the so-called “hard money,” which comprises the reported cash contributions.

It is reasonable to ask at this point how this \$350 million in union soft money shows up. Surely, it's impossible to hide political spending of a third of a billion dollars a year in soft money. Where does it go?

Honest Answer. The Steelworkers union in its official publication a few years ago gave us a surprisingly honest answer to that question. Here's what it said:

Use local treasury money. It can't go for direct political contributions, but it can do a lot. Mailings, supporting or opposing candidates, phone banks, precinct visits, voter registration and get-out-the-vote drives. Contributions to national, state or local COPEs. And it can be used to raise voluntary funds for the Steelworkers PAC.

So there you have it. Compulsory dues money, as the Steelworkers Union said, can do a lot.

Now, to cite a few of the publicly-reported examples of union soft money at work last year.

First, from the *Washington Post*, October 11, 1988: “For organized labor, the past five weeks have been a warm up....Armed with nearly \$40 million in cash, an army of volunteers, organized labor is moving into the critical get-out-the-vote phase of its campaign to elect Democratic Presidential nominee Michael Dukakis.

“...Union officials said they have assembled the most sophisticated election operation in memory.

“...The CWA... has ordered every one of its 200-member field staff not actively engaged in contract negotiations to spend full time on the election.”

From the *Wall Street Journal*, September 20, 1988: “The AFL-CIO plasters its newspaper with the Dukakis message and followed with videos and millions of flyers. It expects to field 500,000 volunteers. The American Federation of Teachers sent 16 videos to 100 locals. The United Auto Workers taps union publications and the mail. The Communications Workers turns to phone banks to get out Democratic votes.”

(Right here I need to clarify the repeated reference to these so-called “volunteers.” With very few exceptions, these are not volunteers in the normal sense of the word. They are paid union workers recruited specially for campaign duty. Their compensation normally comes right out of union treasury funds – made up mostly of compulsory union dues. Calculate the cost of 500,000 campaign workers at only \$4 an hour for a total of twenty hours each. There goes your entire \$40 million right there.)

Los Angeles Times headline, August 9, 1988: "Profile low, union influence high in Dukakis campaign." The story goes on: "Union leaders are minimizing, or at least not emphasizing, the significant role organized labor is really expected to play in the campaign."

"Like A Military Camp." Now just one quick, but informative glimpse at the unions' 1984 campaign. From the *Los Angeles Times*, October 24, 1984, "The AFL-CIO in Ohio has set up 80 telephone banks....At the state's biggest phone bank in Cleveland, retired and unemployed unionists are paid \$4.00 per hour to make a total of 10,000 calls per day. 'They run it like a military camp up there. You have to raise your hand if you want to get a coke,' said a Mondale campaign official."

While our look at the extent of the union soft money political machine depends mostly on glimpses of the tip of the iceberg, the full scope of union political activity does get documented in the record of litigation from time to time. The record in the *Beck* case, for example, which first went to trial ten years ago, provided a detailed look at the CWA's political activity.

The boast by then-CWA President Glenn Watts that this union has influence out of all proportion to its numbers is more a tribute to the union's in-kind political activity than to contributions from the hard money fund.

The trial record showed that cash contributions from CWA, for example, in 1976 were \$825,347 – suggesting in-kind services rendered by this union costs between \$4 million and \$8 million. It was based on this meticulous record that the trial court in the *Beck* case found that only 21 percent of union dues was being lawfully used for collective bargaining purposes while the remaining 79 percent went for political, ideological, and other noncollective bargaining purposes.

Well-funded lobbying on Capitol Hill is continuous for unions like the CWA. The trial record in the *Beck* case shows this. Union lobbying is not confined to bills touching on the union or even the bills affecting the union as an institution. Bills that bear no more relationship to union members than to all other citizens are regularly supported or opposed.

Union Lobbying. So, in addition to measures like "labor law reform," the record showed CWA involvement in literally dozens of issues ranging from postcard registration, to depletion allowance, to natural gas price regulation, to copyright law revisions, to strip mining, to national health insurance.

And, while the trial record in the *Beck* case was made in 1980-1981, the situation is no different today for the CWA and most other international unions – right down to the full page ad in the September 17, 1989, *Washington Post*, sponsored by the more than a dozen big unions promoting a march on Washington. That \$30,000 ad was just one (probably small) part of the dues-financed drive to pressure Congress for tax-subsidized housing.

While time prevents a comprehensive look at the full breadth of union politics and lobbying, I am trying to give you a feel for the nature and scope of it. A common thread in most union-political activity is its slavish support for "tax and spend" government, thus rendering our nation less able to compete in today's world economy.

The second reason for the anomaly of growing union political power in the face of shrinking union membership is the shift in the center of gravity of the union movement from private sector to public sector unions. While private sector union membership is now reported to be around 13 percent of the work force, public sector union membership has leaped to something like 37 percent of the work force.

Militantly Left Wing. The public sector unions, typified by the giant NEA teachers union are not only militantly left wing in their ideology, they are more politically active than many of the private sector unions. The fact that the largest union in the country is no longer the relatively non-ideological Teamsters union, but the politically-militant NEA teachers union is significant as well as symbolic.

Until about twenty years ago, NEA leaders strongly rejected the idea of unionization. I once visited the NEA headquarters in the early 1960s and found that they even had a department whose sole purpose was to help teachers defeat union representation elections. The NEA vehemently rejected the idea of collective bargaining and strikes.

But in the late 1960s, all of that changed abruptly. An entirely new regime took control of the organization, openly converting it into a militant trade union dedicated, first to seizing unchallengeable political control and secondly to serving the self-interest of its members.

The 1970 NEA president, one of the early leaders of the radically changed NEA, declared: "I will not be satisfied until we are the most powerful lobby . . . This organization will control the qualifications for entrance into the teaching profession, and for the privilege of remaining in the profession...."

Determined to Control. In 1973, NEA president Catherine Barrett bragged, "We are the biggest potential political striking force in this country, and we are determined to control the direction of education."

Even before she was elevated to the national presidency in 1984, a post which she held for a record six years, NEA president Mary Hatwood Futrell declared: "When we were nice and polite, we didn't get anywhere. There is no alternative to political action. Instruction and professional development have been on the back burner for us compared to political action."

Surveys indicate that 40 percent of NEA members are registered Democrats while 30 percent are registered Republicans. And hundreds of thousands pay just to keep their jobs, but are not members. It was easy to lose sight of that fact during last year's election campaign in which the NEA was one of the noisiest drum beaters for Presidential candidate Michael Dukakis. When Dukakis announced his campaign to raise millions of dollars in "soft money" through a newly discovered loophole which funnels money through state political parties, the NEA was one of the very first to step forward with a \$100,000 check to undergird the Dukakis campaign.

According to the Federal Election Commission report for 1988, the NEA PAC gave away about two million dollars in hard money, the fourth largest of any political action committee. That hard money figure — reportable cash contributions — is primarily useful as an indicator of where the real union money is directed — the in-kind, soft money support. Much of that soft money is extorted from teachers who would not otherwise pay for the politics of the union officers.

The NEA, whose members are more Democrat than Republican by a ratio of only 4 to 3, showered its political largess on Democratic candidates by a ratio of 16 to 1, \$2 million versus \$120,000.

The NEA proudly boasted in a recent bulletin that its placing of 400 delegates in last year's Democratic National Convention in Atlanta marked the fourth time since 1976 that NEA members made up the largest delegate contingent of any single organization at the Democratic Convention.

Formidable Power. Now let's have a look at just what the NEA's ruling elite is doing with that formidable political power. At its 1988 assembly, it passed three hundred resolutions. Here's a sampling: The NEA wants a federal law to mandate monopoly bargaining in every school district, accompanied, of course, by forced-dues from every teacher. The NEA wants to wipe out all Right to Work laws.

The NEA maintains a target list of "far right extremist" groups, whose influence its members are mobilized to combat in the public schools. I consider it a badge of honor that both the National Right to Work Committee and The Heritage Foundation are on the NEA's hate list.

The NEA wants to control licensing teachers, ultimately through a "national professional standards board," an NEA-dominated national bureaucracy which would have the power, as former NEA president George Fisher says, to control "who enters, who stays, and who leaves the [teaching] profession."

The NEA supports teachers strikes, legal or illegal. It objects to "the practice of keeping schools open during a strike," denouncing this as "an unprofessional act which jeopardizes the welfare of school employees and the educational process."

The NEA promotes homosexual "rights," fighting time and again — usually successfully — to keep homosexual teachers in the classroom — so long as they pay union dues.

The NEA's antipathy toward parental influence over a child's education is reflected in its opposition to home schooling and to any form of tuition grants or government assistance which enhances parental choice.

The NEA is against merit pay for teachers.

It wants state-run day care centers.

It is for a nuclear freeze.

It is against nuclear power plants.

It is against voluntary school prayer.

It is against aid to the Nicaraguan resistance.

It is for tax-funded abortions.

It was for Mondale in 1984, and for Dukakis in 1988.

It opposed Judge Robert Bork.

It is for gun control.

It is for drafting women into the military.

It is for school-based clinics dispensing contraceptives.

It is for national health insurance.

It is against English as the official language.

It is against drug, alcohol, and AIDS testing.

It is for D.C. statehood.

It promotes anti-defense lesson plans, prepared in cooperation with the ultra-left “Union of Concerned Scientists,” causing the *Washington Post* to comment editorially (April 5, 1983): “This is not teaching in any normally accepted – or for that matter, acceptable – sense. It is political indoctrination.”

By now I’m sure you know what happens to schoolteachers who object to having their dues money used to promote any or all of those 300 wide ranging NEA political objectives? If they don’t pay, they are fired.

Politics Over Doctrine. The determination of the NEA bosses to force every teacher to help finance every one of its political positions is illustrated by the experience of Robert Roesser, an engineering professor at the University of Detroit, which is operated by the Catholic Church. Dr. Roesser had a long and distinguished teaching record. A devout Catholic, he objected to the NEA’s use of his dues to finance a campaign to defeat a judge solely because the judge had refused to order a minor to have an abortion. Dr. Roesser told University officials that, as a Catholic layman strongly opposed to abortion, he could not in good conscience allow his funds to be used to promote abortion. In an awesome display of NEA “control...over who remains in the teaching profession” the University was ordered to terminate Dr. Roesser. The result: Robert Roesser was fired by this Jesuit-operated institution because he would not pay money to promote abortion. Thus, the NEA’s political agenda took precedence over Catholic doctrine at the University of Detroit.

Probably the most alarming aspect the NEA’s drive for control, not only of our educational system but of our government at every level, is its growing success in placing its own candidates on school boards and in other elected offices. This is where the NEA union officials are using their formidable political power to put in office public officials who will bend government policy to give the NEA even more political power. The result is that NEA union officials are in effect sitting on both sides of the collective bargaining table. On one side are the actual officials of the union and on the other – the so-called public side – are agents of the union placed there by union political action.

What this means for the quality of education is all too obvious.

I think I’ve painted a pretty grim picture, especially concerning the damage being done to our country by the NEA teachers union. If I haven’t, I haven’t served you as I should have. I’ve been following this subject closely for a long time, and I think we are in a heap of trouble.

NEA Stranglehold. No matter how much political posturing we hear about educational reform; no matter how many scholarly studies are published analyzing the problems in public schools; no matter how frustrated and concerned parents across the nation may become; no substantial improvement in education will occur until the stranglehold on our school system now held by a self-serving, left-wing political movement called the NEA is broken.

I should point out that, strictly speaking, public sector unions like the NEA are not covered by the NLRA. For the most part, they are governed by state laws which, unfortunately, are modeled after the federal law. In the face of rising NEA union militancy in the 1970s, most state legislatures were stampeded into adopting for public sector labor relations the destructive policies of the private sector. In the public sector, sheltered as it is from the discipline of the competitive marketplace, these policies were not merely detrimental; they proved to be catastrophic.

The National Right to Work Legal Defense Foundation and its sister organization, the National Right to Work Committee, are attacking this problem at its roots: the Foundation, assisting employees and setting new precedents in the courts; and the Committee, working in state legislatures and the halls of Congress.

Solid Progress. On the litigation front, we can report solid progress. As encouraging as those precedents are, however, they are only a beginning. The U. S. Supreme Court's *Hudson* decision, limiting forced dues to the cost of collective bargaining, is effective only to the extent that union officials at the state and local level can be made to comply with the Supreme Court doctrine. Through a massive effort, we are making steady progress in that direction.

In the private sector, the *Beck* case covering the NLRA and *Ellis* covering the Railway Labor Act, come into play, again providing the instrument which can moderate the political power of union officials – power which, by their own admission, is “out of all proportion to (their) numbers.”

Our organization is giving a high priority to its campaign to reach America's captive union members and employees with information about the rights which are now available to them under these decisions. Because of a conspiracy of disinformation on the part of the National Labor Relations Board bureaucrats and union officials, coupled with stony silence on the part of intimidated employers, probably not one union member out of a thousand knows about the relief available to him or her under the *Beck* decision.

Shedding the Yoke. Progress is being made, but we have a long way to go. Fifty-six members of the House have joined in co-sponsoring a bill requiring detailed notice by the employer and the union to every compulsory dues payer of his or her rights under the *Beck* decision. A dozen senators, led by Senator McConnell of Kentucky, have launched a similar drive in that chamber. President Bush has incorporated this proposal into his campaign reform package, prompting political scientist Larry J. Sabato of the University of Virginia, a leading authority on campaign financing, to comment that full implementation of the *Beck* decision, “would have a much greater effect on campaign finance” than almost anything else being considered.

We're out to tell every compulsory union member in America about the political emancipation now at hand, and to help each of them shed the decades-old yoke of political bondage. We invite all who hear this message to join us in this crusade. If we truly get the word to everyone who needs to hear it, we will change the political balance of power in this country.

