



Foundation Action

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

Vol. XXII, No. 3

8001 Braddock Road • Springfield, Virginia 22160

www.nrtw.org

May/June 2002

Activist Court Forces Employees to Fund Union Organizing Drives

Showdown imminent at U.S. Supreme Court

SAN FRANCISCO, Calif. — In a stunning 11-0 reversal of its previous unanimous ruling, the U.S. Court of Appeals for the Ninth Circuit affirmed that union officials may force 7.8 million employees to pay for union organizing drives as a condition of employment.

Foundation attorneys immediately asked the U.S. Supreme Court to review the ruling, which upheld the Clinton National Labor Relations Board's (NLRB) attempt to overturn existing Supreme Court precedent.

"No worker should be forced to fund the recruitment of supporters to a private ideological cause," said Reed Larson, President of the Foundation. "This ruling is an outrageous affront to employee freedom and previous rulings of the U.S. Supreme Court."

Fight over organizing holds the future of compulsory unionism

Judge Stephen Reinhardt, a former union attorney and executive committee member of the Democrat National



AP Wide World Photo

Unless overturned, the Ninth Circuit's baseless ruling will allow AFL-CIO bosses like Richard Trumka (pictured above with recently exposed shakedown artist Jesse Jackson) to force workers to support militant organizing drives.

Committee, authored the decision. In recent years, the Ninth Circuit has been overturned by the High Court more frequently than any other federal appellate court.

Union bosses understand that organizing activities are essential if they are to keep their stranglehold over workers and the economy. This is why organizing expenses often exceed 30% of a union's budget. AFL-CIO Boss John Sweeney has made subjecting new workers to forced unionism one of his top priorities.

Big Labor uses organizing campaigns to cement its control over an industry and to guarantee that workers pay forced union dues. Recruiting drives can also be used to advance forced unionism in industries that have been free from the grip of union influence,

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Union Forced to Refund \$120,000 in Illegally Seized Dues

Without protection of a Right to Work law, employees battled 10 years for justice



Thanks to many years of hard work by Governor Keating and Right to Work forces, Oklahoma's workers can no longer be compelled to support a union.

OKLAHOMA CITY, Okla. — As a result of the persistence of Richard Ohse, the amount that International Brotherhood of Boilermakers (IBB) Local D465 union officials must pay out in refunds of illegally seized dues to Ohse and 60 other employees of the Carlon Corporation has risen to approximately \$120,000.

With the help of Foundation attorneys, Ohse finally prevailed despite a eight-year effort by Bill Clinton's National Labor Relations Board (NLRB) to prevent him from reclaiming forced dues that had been illegally confiscated by the union and used to support political activities.

Clinton NLRB buried Beck cases

The case arose after IBB officials illegally rebuffed Ohse's attempts to exercise his rights under *Communications Workers v. Beck*. The Foundation-won *Beck* Supreme Court decision protects the right of workers

to stop all compulsory union dues used for politics and other non-bargaining activities.

Mr. Ohse has waited more than a decade for this ruling. Although the case was filed in 1991, it collected dust under the Clinton NLRB's refusal to decide the case. The burying of workers' *Beck* cases at the NLRB was one of many rewards that Clinton appointees gave the union bosses for their help during 1992 and 1996 presidential campaigns.

By failing to take action on Ohse's case, and numerous others that dealt with violations of *Beck* rights, the Clinton NLRB allowed Big Labor to continue illegally seizing workers' dues to support nationwide electioneering.

In 1999, the Foundation filed a petition for a *writ of mandamus*, which forced the foot-dragging NLRB members to issue a speedy decision in the case or face contempt of court charges.

"After all of these prosecutorial delays and the union's stonewalling,

these employees have finally been made whole," said Stefan Gleason, Vice President of the Foundation. "No matter how long union officials hold out, they cannot ultimately deny workers their fundamental rights."

New Right to Work law frees workers

Fortunately, workers in Oklahoma now are spared from having to face the same ordeal suffered by Richard Ohse and his colleagues. When the people of Oklahoma adopted a Right to Work law on September 25, 2001, most workers were freed from the grip of forced unionism.

To ensure that the fundamental right to refrain from supporting a union is protected, National Right to Work Foundation attorneys are currently representing three employees who are defending in court Oklahoma's new Right to Work law from union attack. †

Foundation Action

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Distributed by the
National Right to Work Legal Defense Foundation, Inc.
8001 Braddock Road, Springfield, Virginia 22160
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The Foundation is a nonprofit, charitable organization providing free legal aid to employees whose human or civil rights have been violated by abuses of compulsory unionism. All contributions to the Foundation are tax deductible under Section 501(c)(3) of the Internal Revenue Code.

Big Labor Puts Health Care In Critical Condition

Union bosses' lust for power grabs doctors, nurses, and patients

SPRINGFIELD, Va. — Imagine a hospital emergency room where the nurses were ordered out on strike, afraid to help their sick patients due to threats of retaliation. But if the union hierarchy has its way, scenes like this will become commonplace around the country, as an increasing number of medical professionals are herded into compulsory unionism.

As the Foundation strives to oppose union power grabs, a major new front in this battle is the health care industry. Currently, health care is a multi-billion dollar a year industry which involves 16 percent of our nation's economy. Union bosses see this field as fertile ground to extract forced union dues.

"Like swarming locusts, union operatives want to devour the health care industry," said Foundation President Reed Larson. "If the same forces that have run public education into the ditch are allowed to take over health care, the public's health is at risk, to say nothing of consumers' pocketbooks."

Ill patients used as a bargaining tool

As renowned University of Chicago economist Sam Peltzman pointed out, "whenever unions get a toehold, performance ultimately deteriorates." This is true because union officials foment conflict and demand that workers labor under a collective bargaining agreement that rewards the lowest common denominator of performance and punishes the best and most productive employees. Meanwhile, employees who refuse to toe the union line risk reprisal by union militants, and sometimes loss of their jobs.

Stanford Hospital nurse Barbara Williams faced this situation when the tragically misnamed Committee for Recognition of Nursing Achievement (CRONA) union ordered a strike in 2000. When asked why she continued to work during the strike, Williams told



Patients or picket lines? Union bosses are increasingly forcing nurses to walk picket lines instead of taking care of the elderly and sick.

the local media, "I am a professional and I cannot abandon my patients, I think it is morally and ethically wrong. When the union ordered the nurses to walk out there were no replacements ready to take care of a hospital full of patients."

Instead of commending her professionalism, union bosses tried to make an example of her. The union brass fined Williams \$2,500, even though she had not been a member of CRONA since 1988. She has also been the victim of workplace harassment by union militants ever since. In a job where teamwork is critical, Williams has been ostracized simply for putting her patients first and since then has lived in fear for her safety and well being.

Williams, a recognized leader in the nursing field with over 25 years of experience, is an author of two books on organ transplants.

"Strikes do not belong in the nurs-

ing profession," said Williams. "If we are going to be treated like professionals, and receive the wages and benefits we deserve, we cannot have people worried that we will abandon our patients anytime the union is unhappy."

But with the help of the Foundation, Williams fought back and won. After a year-long fight in court and the NLRB, the California Superior Court threw out the union officials' confiscatory fine.

Foundation attorneys also assisted Williams in filing a complaint with the NLRB, which ruled that the CRONA union was guilty of unfair labor practices for failing to disclose how her forced union dues were spent. That disclosure is required by Foundation-won Supreme Court precedents.

"The tactics used against Barbara Williams are straight out of Big Labor's playbook," said Larson. "The strategy of union chiefs is to terrorize anyone who dares to put their principles ahead of union demands."

Home care workers trapped in union scam

Increasingly, health care services are not confined to hospitals. With a growing elderly population, the home care industry has seen an increase in the number of both clients and care providers.

Of course, union bosses are eager to get their hooks into this growing industry as well. In fact, AFL-CIO Boss John Sweeney has called efforts in Los Angeles to bring compulsory unionism to this field the largest unionization drive ever conducted in the United States.

Foundation attorneys are currently representing four Los Angeles independent home care providers – Janos Hummel, Carla West, Eden Rosen, and Brenda Davis – in a massive class-action suit that will shape the future of home care. The Foundation's suit seeks to

Utah's Voluntary Contributions Act Falls Way Short

Victory only possible by ending, rather than regulating, forced unionism

SALT LAKE CITY, Ut. — Officials of Utah labor unions insist that lobbying is not a political activity. This claim, though absurd on its face, is hardly surprising considering the source. What is surprising – at least to supporters of Utah's recently enacted "Voluntary Contributions Act" (VCA) – is that Utah Attorney General Mark Shurtleff (R) agrees with the union bosses.

The Attorney General recently informed state legislators that his office would construe Utah's Voluntary Contributions Act (which was intended to prohibit union officials from spending state workers' dues money on political activities without their consent) to exclude advocacy such as "lobbying" from the definition of "political activities."

If the Shurtleff theory holds up in the face of the AFL-CIO's multi-union legal attack, the new state law ironically will provide significant legal cover for union bosses to push their ideological agenda. While public employees unknowingly fund union political activism, they will be told that their union dues are no longer funneled into politics without their consent.

Monopoly bargaining is root of union privilege

The way things are panning out, Utah's VCA – even if upheld by the courts – won't be much of a problem for the union officials. More important, the regulation distracts attention from the real source of union coercive power and abuse: monopoly bargaining.

Monopoly bargaining is the premier union special privilege, granted or allowed by federal law and the laws of many states. It forces individual employees at unionized workplaces to accept union "representation" – even if they don't want it.

National Right to Work Legal Defense Foundation attorneys have



Union bosses correctly pointed out that Foundation attorneys are trying to "knock all the chessmen of the board," by overturning monopoly bargaining in Utah.

intervened in this case on behalf of union members who oppose their unions' politicking. Foundation attorneys argue that, if Big Labor lawyers succeed in overturning the VCA as an unconstitutional interference into private union matters, then monopoly bargaining must also be declared unconstitutional for all Utah's government employees because of its inherent infringements on their rights to free speech and association. The brief Foundation attorneys filed was attacked by the union lawyers in court last month as "an attempt to knock all the chessmen off the board."

"They're right," said Stefan Gleason, Vice President of the Foundation. "In their zeal to overturn this flimsy regulation, the union lawyers have handed us an opportunity to uproot the most fundamental union privilege."

Even though Utah has a highly popular and effective Right to Work law that enables nonunion employees to pay no dues whatsoever to an unwanted union, the still-intact monopoly bargaining privilege forces employees to accept the rigid terms of "one size fits all" union-brokered contracts – contracts

that tend to punish the best and most productive employees.

This bars all employees – even union objectors – from individually negotiating over the terms of their own employment. And using their monopoly bargaining privilege, union officials refuse to allow non-union members any input into workplace issues that directly affect them.

Monopoly bargaining often leaves employees who don't support the union's ideological agenda with an intolerable choice: Join the unwanted union and pay for its politics or give up their workplace voice.

In theory, the Voluntary Contributions Act partially resolves this dilemma. But in practice, it simply muddies the waters. Utah's VCA law leaves monopoly bargaining – the very root of forced unionism – intact. Meanwhile, as recent history has shown, so-called "paycheck protection" type regulations in other states have utterly failed to curtail union political abuse.

In Washington, for instance, a state judge ruled in a recent case that, even though the state affiliate of the powerful National Education Association (NEA) union had deliberately violated Washington's paycheck protection law, the penalty was nominal.

"So-called 'paycheck protection' type regulations in other states have utterly failed to curtail union political abuse."

Unfortunately, Washington teachers relying only on the paycheck protection law continue to be forced to pay union dues for politics because the law has an extremely narrow definition of what constitutes "politics." Paycheck protection regulations typically contain huge loopholes for union

chiefs, such as the ability to spend unlimited amounts on lobbying. Often, when a paycheck protection law goes into effect, union officials simply juggle their financial books, and, voila! – political

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Worker Canned for Refusing to Pay Dues For Politics

Sacramento union bosses try to ruin careers of employees who object

SACRAMENTO, Calif. — With the help of the National Right to Work Legal Defense Foundation, two Sacramento city employees, Hewett Hesterman and Michele Rudek, have filed a federal suit against the city of Sacramento and the Western Council of Engineers (WCE) union for forcing the illegal firing of workers who refuse to pay full union dues, including dues spent for politics.

City officials do union's bidding

The case arose in February, when WCE officials demanded that non-union employees pay an agency fee equal to full union dues or face termination from their jobs. In response, Hesterman and Rudek asked for a written account of how the union spends workers' dues and asked for a reduction in the fee because they were not union members.

In violation of the employees' constitutional and due-process rights established by the U.S. Supreme Court, WCE officials rejected both requests and had Hesterman fired in March. The Foundation's lawsuit has stopped the threatened firing of Rudek.

The actions of WCE officials directly violate the Foundation-won Supreme Court decision in *Chicago Teachers*

Union v. Hudson, which requires unions to provide objecting employees an advance reduction of forced union dues used for politics and other non-bargaining activities. Under *Hudson*, union officials must also provide audited disclosure of their books and justify expenditures made from forced union dues seized from employees who have chosen to refrain from union membership.

"Unfortunately, what has happened to Hesterman and Rudek is not an isolated incident," said Foundation Vice President Stefan Gleason. "Union bosses try to silence their opposition by any means necessary."

Union czars have something to hide

As more workers demand to know how their dues are spent, union bosses are becoming more militant. Although they claim to represent the best interests of working people, union bosses spend this money in ways that would shock most union members. In a report recently released to the media, the Foundation documented many of these misuses of union dues.

For example, members'

dues are often used to support liberal Democrats and their big government, high-tax agenda, even though nearly 40 percent of union voters routinely vote for candidates other than those endorsed by their unions. (It is, of course, equally wrong for a union to use the forced dues of its Democrat members to support Republican candidates, though this rarely takes place, since nearly 95 percent of union political funds are funneled to left-wing Democrats.)

In addition, although most workers do not want to help advocate the homosexual lifestyle, their dues are used to pay for programs such as "Pride at Work," which pressures schools, churches, and local governments to boycott the Boy Scouts of America until it agrees to enlist open homosexuals as Scout leaders.

These outrageous activities will continue to occur because in most states workers are forced to pay union dues or fees as a condition of employment. So

long as union officials have the power to compel workers' support, union hierarchies will never be accountable to rank-and-file workers. ⚡

Workers get "special treatment" for standing up for their rights.



Utah's Legislature Fails to Eliminate Union Privileges

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spending falls under a myriad of different categories that can legally be charged to employees without their consent.

Law allows union easily to cook books

Before Utah union lawyers filed their lawsuit to try to overturn the new paycheck protection statute, union officials

were, if experiences in other states are any indication, already busily cooking their books to avoid the law's severely limited protections anyway.

But in their arrogance, Utah union officials may have shot themselves in the foot. If the VCA is overturned as they hope, then their cherished monopoly bargaining privileges could be struck down as well.

But in the event that the court fails to

strike down monopoly bargaining as unconstitutional, then it is up to the freedom-loving citizens of Utah to persuade the state's elected officials to enact real reform by banning this fundamental union privilege through the legislature.

Ending the ability of union kingpins to foist their "representation" on non-consenting employees would — unlike Utah's Voluntary Contributions Act — tear out compulsory unionism from the root. ⚡

Supreme Court Showdown Imminent Over Union Organizing

continued from cover

which typically creates conflict in the work place, reduces the level of performance, and increases costs.

As more workers become hostile to the abuses of forced unionism, Big Labor's organizers are cynically changing their tactics to emphasize "top-down organizing." First, they bludgeon employers with aggressive "corporate campaigns" that use outrageous lies, boycotts, and misinformation to destroy honest, productive businesses. Union militants stop the vicious attacks only when the employer signs a "neutrality agreement" – in effect muzzling his right to free speech.

Step two is to intimidate the workers themselves into signing away their rights in abusive "card check" organizing campaigns. Union goons use lies, deception, and often physical intimidation to force workers to sign authorization cards, which are presented to the employer to induce him to recognize the union. The result is that unions seize power over new workers without even having to go through the pretense of an election.

A ruling based on politics, not precedent

Under the Supreme Court's 1988 ruling in *Communications Workers v. Beck*, a case brought by Foundation attorneys, employees may not be forced to pay for union political activities and other activities not directly related to collective bargaining, contract negotiation, or grievance adjustment.

Earlier, in the Foundation-won precedent *Ellis v. Railway Clerks*, the High Court had determined that union organizing expenses were, at most, only tenuously related to collective bargaining, and thus employees who are not members of a union cannot be legally forced to financially sup-

port this activity. But these Supreme Court rulings did not faze the Ninth Circuit's 11-judge panel.

"This type of baseless ruling speaks to the cynicism with which the court system is viewed, and it is an insult to judges who respect the Constitution and legal precedent," said Larson.

Ninth Circuit flip-flop raises eyebrows

The Ninth Circuit's ruling is the latest round in a fight that has already spanned more than 12 years. The case was originally brought in 1990 by grocery store employees Philip Mulder, Charles Buck, Leon Gibbon, Rebecca McReynolds, and Barbara Kipp, who filed charges against the United Food and Commercial Workers (UFCW) union in Michigan and Colorado.

After numerous procedural delays, the NLRB ruled, 4-1, that workers can be forced to pay for union organizing as a condition of employment, and Foundation attorneys appealed. The case was assigned to the Ninth Circuit.

In its original 3-0 ruling issued last June, the Ninth Circuit overturned the NLRB's ruling, and ruled that employees cannot be compelled to pay for union recruitment activity.

In the original appellate court ruling, the panel wrote, "We hold that organizational activity is not necessary for the union's performance of its duties as the exclusive representative of the employees. To require nonmember employees to fund such activity is not authorized."

The court went on to explain, "the Board does not have a free hand to interpret a statute when the Supreme Court has already interpreted the statute." But the 11 judges rehearing the case somehow rejected this logic, deferring to the Clinton Board's rewrite of the law.

Unless Foundation attorneys successfully persuade the U.S. Supreme Court to overturn the Ninth Circuit's latest ruling, the 7.8 million American employees who work in compulsory union shops under the National Labor Relations Act will be required to fund union organizing drives or lose their jobs. ⚖️



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
- ✓ Charitable Trusts
- ✓ Gifts of Stocks/Bonds
- ✓ 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.

Supermarket Clerks Give Arrogant Union the Boot

Foundation web site spurs successful decertification effort for 1,600 workers

WORCESTER, Mass. — By submitting hundreds of signatures on a petition to toss out the union, employees of Shaw's Supermarkets delivered a simple message to United Food and Commercial Workers (UFCW) union bosses — take a hike.

Crediting information obtained from the Foundation's Internet web site, Christine Scanlon decided to distribute decertification petitions to hundreds of coworkers at Shaw's eleven Boston-area stores. According to Scanlon, a 15-year employee of the supermarket, most of the company's 1,600 employees were fed up with the union hierarchy's arrogance and were eager to sign the petitions to remove UFCW Local 1445 as their exclusive bargaining agent.

"Not a day goes by," Scanlon told *The Worcester Telegram and Gazette* that she doesn't hear someone saying, "I hate this union. How can we get rid of it?" Much of the mass disenchantment with Local 1445 resulted from a health insurance plan touted by the union brass that, according to Shaw's, would have dramatically raised premiums beyond what many employees could afford.

One woman makes a difference

Scanlon's concerns about compulsory unionism led her to the Foundation's web site (www.nrtw.org), where she learned about options available to her. She also contacted Foundation attorneys directly, who advised her of her right under *Communications Workers v. Beck* to resign her union membership and reclaim the portion of union dues spent on politics and other activities unrelated to collective bargaining.

Much to the chagrin of UFCW kingpins, Scanlon took it upon herself

to inform her coworkers of their rights. Thanks to her efforts, many employees exercised their *Beck* rights. Moreover, an amazing 60 percent of Shaw's workforce also signed her petition for a decertification election to throw out the union altogether. Shaw's responded to this overwhelming action by withdrawing its recognition of the UFCW union.

Union militants refuse to go quietly

In an attempt to cling to power and keep their hold on workers' compulsory dues, union officials filed charges with the National Labor Relations Board (NLRB) against Shaw's Supermarkets.

When challenged by a decertification election, union bosses typically resort to legal tricks to hold onto power. They are able to do so because of unfair federal labor policies that are stacked to keep them in control. One of the most notorious of these rules is known as the "contract bar rule." It forbids a decertification election during the first three years of a union contract. This rule can trap workers under an unwanted collective bargaining contract and gives union bosses time to eliminate any threat of a decertification.

"In order to keep themselves in power, union officers routinely exploit the privileges handed to them by federal labor policy," said Ray LaJeunesse, Vice President and Legal Director of the Foundation. "They are simply unwilling

to respect the fact that many workers do not want their so-called 'representation.'"

When legal maneuvers do not work, union activists resort to scare tactics to squelch decertification efforts. Workers who are brave enough to come forward sometimes face vicious union retaliation. In addition, rumors are usually spread that decertification of the union will lead to workers losing their benefits or being fired by management.

It is only by hard work and commitment that workers can overcome the obstacles that the stacked labor law allows union bosses to erect. Scanlon believed so strongly that the employees of Shaw's Supermarkets deserved better than a bunch of incompetent and arrogant union officials that she and her colleagues persevered despite the odds.

Meanwhile, Shaw's management also refused to buckle under. Upon hearing the news that a vast majority of employees signed petitions indicating their opposition to union affiliation, Shaw's management withdrew recognition of UFCW Local 1445 as the exclusive bargaining agent, enabling employees to reclaim their right to negotiate individually with their employer and to be rewarded on the basis of their own merit. ⚡



Stefan Gleason, Foundation Vice President spoke before nearly 2000 activists at the annual CPAC meeting in Washington, DC, regarding the need to end forced unionism in education.

Critical Condition

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shut down an increasingly widespread scam that uses state and local law to arbitrarily classify private home care workers as “public employees for collective bargaining purposes only” and then enables union officials to collect millions of dollars in forced dues from the workers’ paychecks.

This case will have far reaching implications, as union czar John Sweeney is encouraging union officials to push the forced unionization of home care workers in a growing number of other jurisdictions. Sacramento, Orange, and San Diego counties as well as, more recently, Oregon and Washington State, have adopted a virtually identical scheme.

Union launches nationwide attack on Foundation

In a sign of desperation, one of Big Labor’s front groups, the so-called “Quality Homecare Coalition,” has begun a smear campaign against the Foundation. The group has run ads that were designed to rally public support against the dissenting workers and the Foundation. However, so far, their efforts have had exactly the opposite effect.

Since Foundation attorneys filed the lawsuit, the Foundation has received numerous phone calls and letters supporting this battle, including scores of calls from home care workers asking for free legal aid.

Recently, SEIU Local 434B officials held a rally in downtown Los Angeles and publicly attacked the Foundation. But their attempts to mislead the public and news media were derailed by Foundation Vice President Stefan Gleason, who appeared on the scene to brief the media about the union’s true agenda. Gleason’s presence highlighted the Foundation’s commitment to winning this case and protecting the rights of home care providers and their patients. †



Message from Reed Larson

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

Bill Clinton appointed a daunting 374 federal judges.

That’s nearly half of all full-time federal judges. And because of their life tenure, many of those judges will be haunting those of us who support the Constitution for years, even decades.

It’s no shock that Clinton stacked the federal judiciary with far-left ideologues, including many union lawyers. The Far Left understands the power of the judiciary. Control over judicial appointments is a central reason why Big Labor spent more than \$800 million in 2000 to elect its handpicked candidates to political office, especially the U.S. Senate.

Today, it’s President George W. Bush who has the right to nominate judges. But the union-dominated Senate is trying to take that right away by abusing its “advice and consent” power to kill well-qualified nominees who don’t pass its ideological litmus test.

As a result, the confirmation rate for President Bush’s judicial nominees last year was a measly 43%, the lowest for a new President in more than 25 years!

Big Labor’s scorched-earth tactics in trashing Bush’s judicial nominees are merely a warm-up for Bush’s first Supreme Court nomination – which may come as soon as next year. For the union bosses, a judiciary that would eagerly join with the Foundation in protecting workers – and America – from the abuses of compulsory unionism is their worst nightmare.

That’s why union officials are using all their power and forced-dues cash to keep an iron grip on the U.S. Senate, and why your support for the Foundation’s program is more vital than ever.

Sincerely,

Reed Larson