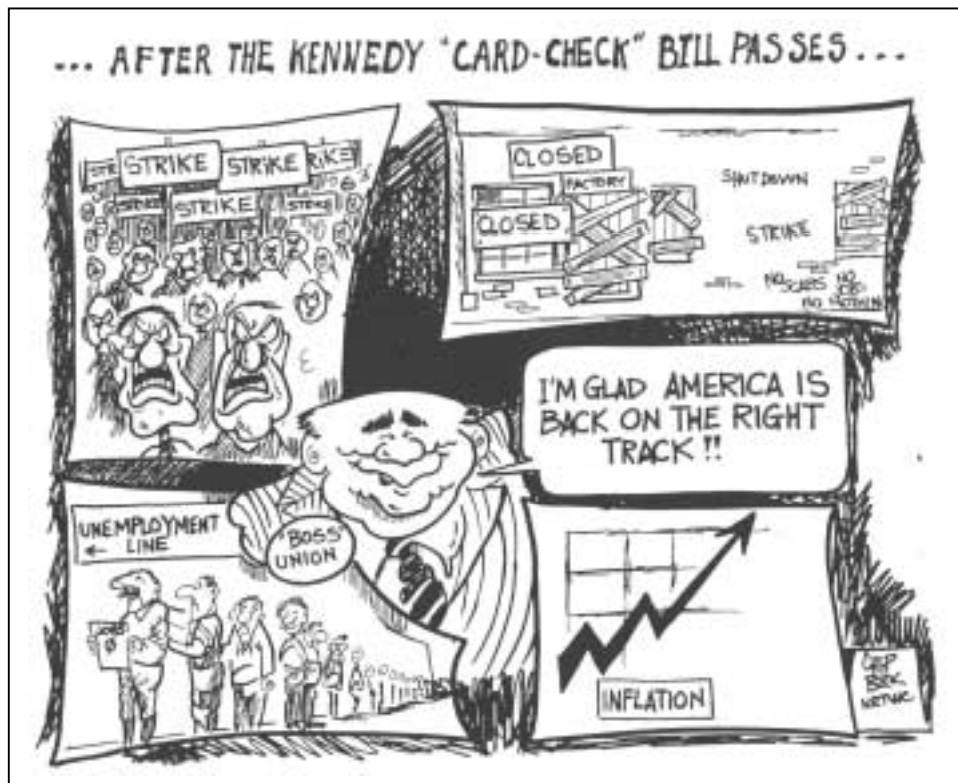


The Economic Consequences Of 'Card-Check' Forced Unionism



A Study by Stan Greer
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The AFL-CIO's massive lobbying and electioneering machine is now being challenged by a formidable PR problem: Its number one legislative objective is opposed by a majority of the union rank and file!

For month after month, union lobbyists have been twisting the arms of Capitol Hill Democrats and Republicans alike in a bid to get a majority of U.S. House members to go on the record in support of the "Card-Check" Forced Unionism Bill (H.R. 3619/S. 1925).¹ Congressman George Miller (D-Calif.) and Sen. Ted Kennedy (D-Mass.) are the lead sponsors of this measure, which they have cynically mislabeled as the "Employee Free Choice Act."

As this study is published, 207 out of 435 House members and 32 out of 100 U.S. senators are cosponsors of the card-check bill, which would effectively ban employee secret-ballot elections over unionization in the private sector.

Card-check organizing is already a favorite Big Labor tactic, but as yet isn't mandated by federal law. It empowers union officials to force a business's employees to accept a union as their "exclusive" bargaining agent solely through the acquisition of signed union authorization cards. Individual workers under the watchful eye of union organizers may be tricked or intimidated into signing themselves, and ultimately all of their nonunion fellow employees, over to union-boss control.

Under federal labor law, employees who have a union acting as their exclusive bargaining agent may more accurately be described as being under a union monopoly. The individual employee, whether a union member or not, is unable to bargain with the employer over pay, benefits, or working conditions on his or her own behalf unless union bosses first grant their permission.²

Law-abiding employers who do not want their independent-minded employees to be subject to union monopoly rule may currently insist that all affected employees at least get the chance to vote in a secret-ballot election before a union is granted exclusive-bargaining privileges. But the Miller-Kennedy bill would eliminate that small safeguard. Consequently, during unionization drives only the views workers express while being monitored by union officials would count.³

¹ Bureau of National Affairs, "Democrats Urged to Support Legislation That Would Reform Federal Labor Law," *DLR (Daily Labor Report) Online*, July 29, 2004; Brian Tumulty (Gannett News), "Unions Target GOP Moderates For Support of Labor Bill," *The Olympian* (Olympia, Wash.), March 11, 2004.

² See, e.g., the U.S. Supreme Court's ruling in *J.I. Case v. NLRB*, 321 U.S. 332 (1944).

³ Go to <http://thomas.loc.gov> and enter H.R. 3619 or S. 1925 into the bill number box to review the Miller-Kennedy bill. See especially Sec. 2, "Streamlining Union Certification."

Recent Survey Shows Most Union Members Oppose Card-Check Schemes

Forced-unionism apologists sometimes concede that, in principle, secret-ballot elections are fairer than “elections” in which your “vote” is monitored by agents of one of the opposing parties.

In an August 2001 letter to Mexican government officials who oversee labor policy in the state of Puebla, Rep. Miller, the lead sponsor of the House version of the Card-Check Forced Unionism Bill, and 15 other Big Labor congressmen and women wrote that in union recognition drives “the secret ballot is absolutely necessary” Without the secret ballot, they explained workers may be “intimidated into voting for a union they might not otherwise choose.”⁴

And in the U.S. as well as in Mexico, union officials insist that unionized employees be given a chance to cast a secret-ballot vote before a union is *decertified*, even if most have already signed a petition opposing the union. Indeed, the AFL-CIO hierarchy actually joined in a 1998 brief to the National Labor Relations Board (NLRB) that, approvingly citing court precedents, criticized decertification petitions and cards as “not comparable to the privacy and independence of the voting booth.” The union lawyer-authored brief forcefully argued that the secret-ballot “election system provides the surest means of avoiding decisions which are ‘the result of group pressures and not individual decision[s].’”⁵

As the National Institute for Labor Relations Research has previously pointed out, the AFL-CIO hierarchy is not pushing hard to advance and ultimately enact the Miller-Kennedy bill out of a sincere, albeit bizarre, belief that card checks are somehow more fair than secret-ballot elections.⁶

Instead, Big Labor is obviously acting on the belief that enactment of Miller-Kennedy will enable union organizers to secure monopoly-bargaining power over millions, perhaps even tens of millions, of now-independent employees. Union-label Sen. Charles Schumer (D-N.Y.), the author of his own card-check bill as well as a Miller-Kennedy cosponsor, has been especially frank about the intent of such legislation:

“Canada’s workforce is currently 32 percent unionized, and the United States is 12 percent unionized – even though our two countries offer fundamentally the same economy. The difference in our unionization can be explained in two words: card check.”
(Union bosses’ unconditional use of card checks has been

⁴ Letter to the Junta Local de Conciliacion y Arbitraje del Estado de Puebla, August 29, 2001.

⁵ Joint brief of the United Automobile, Aerospace, and Agricultural Implement Workers of America, the United Food and Commercial Workers, and the AFL-CIO in *Chelsea Industries and Levitz Furniture Co. of the Pacific, Inc.* Nos. 7-CA-36846, 7-CA-37016 and 20-CA-26596 (NLRB).

⁶ See www.nilrr.org/Big%20Labors%20Cockamamie%20Campaign.pdf (“Big Labor’s Cockamamie Campaign Against Secret Ballot Votes for Workers”) for details.

guaranteed by the Canadian federal labor code as well as by many of its provincial statutes for many years.)⁷

In the eyes of union officials, the goal of dramatically increasing the number of unionized workers is unquestionably noble. Therefore, they imply, no one should focus too long on the proposed means. But they have a big problem. By a substantial majority, union members themselves oppose card checks.

Late this June, after they spent many months hearing and reading union officials' propagandea in support of Miller-Kennedy itself and card checks in general, union members nationwide were polled on the subject by the respected firm Zogby International, headquartered in Utica, N.Y. The poll was commissioned by Michigan's Mackinac Center for Public Policy.

By a 53% to 41% majority, union members rejected the notion that having "union organizers ask workers to sign their name on a card if they want a union, or refuse to sign the card if they don't want a union" was "the fairest way to decide on a union." The survey did not ask whether or not federal law should authorize union bosses to act as monopoly-bargaining agents of union members and nonmembers alike under any circumstances. But 53% of union members believed that a union should at least have to clear the higher hurdle of a secret-ballot election in order to acquire this privilege. (Five percent were uncertain.)⁸

Real Weekly Earnings and Disposable Per Capita Income Are Higher in Low-Monopoly-Bargaining-Density States

Union officials and other forced-unionism apologists have been unable to convince a majority of their own members, let alone the general public, that the card-check system is fair. Now they are trying to shift the focus of the debate to the alleged economic benefits that would ensue from millions of additional workers being forced to accept a union as their monopoly-bargaining agent.

For example, John Podesta, a former Clinton White House chief of staff and the president and CEO of the Center for American Progress, a pro-forced unionism "think tank," claims that public policies promoting what he calls "a strong, growing, effective [monopolistic union] labor movement" are "in everyone's interest." According to Podesta, card-check forced unionism is "about rebuilding the American middle class" and "renewing the American compact."⁹

Unfortunately for Podesta and for the AFL-CIO hierarchy, their claims about the alleged economic benefits of increasing the number of workers subject to union

⁷ "Schumer, Top Union Officials Open New Legislative Front in Effort to Expand Unionization" (http://schumer.senate.gov/SchumerWebsite/pressroom/press_releases/PR01976.pf.html), September 3, 2003 press conference held by Sen. Schumer.

⁸ Mackinac Center for Public Policy, "Checking the Premises of Card Check" (www.mackinac.org/print.asp?ID=6704), posted July 20, 2004.

⁹ John D. Podesta, "On Restoring the Freedom to Form Unions" (<http://www.americanprogress.org/site/pp.asp?c=biJRJ8OVF&b=111169>), remarks made at a June 25, 2004 seminar in Washington, D.C.

monopoly bargaining are no more convincing than their case that secret-ballot elections in the workplace are “unfair” and must be eliminated. To the contrary, considerable evidence suggests that a new federal law promoting monopoly unionism would actually lower real earnings and household incomes, hinder job creation, increase poverty, and reduce the availability of important job benefits like health insurance.

Some of the potential harm that would be wrought by the Miller-Kennedy bill can be seen by contrasting real earnings levels, job growth and other key economic indices in states where private-sector monopoly bargaining is most prevalent with indices in states where it is least prevalent.¹⁰

When interstate differences in cost of living are factored in, the mean weekly earnings in 2001 of employees in the 10 states with the lowest share of private-sector workers under union monopoly bargaining were \$683. That’s more than \$30 a week, or roughly \$1600 a year, more than the mean of \$652 earned by employees in the 10 states with the highest share of unionized employees.¹¹

Residents of low-monopoly-bargaining-density states also enjoy higher real per capita disposable income.¹² When adjusted for cost of living, disposable per capita income in the 10 states with the lowest share of private-sector workers under monopoly bargaining was \$26,354 in 2001, compared to just \$25,797 in the 10 states where Organized Labor enjoyed the most monopoly power.¹³

Further confirmation that real incomes are negatively correlated with the prevalence of union monopoly control over the workplace is offered by a November 2002 study on cost-of-living-adjusted state poverty rates.

¹⁰ For data on overall and private-sector union density levels in the 50 states, see various editions of the annual *Source Book on Collective Bargaining: Wages, Benefits, and Other Contract Issues*, published by the Bureau of National Affairs. Such data are always located either at the end of the annual review section or at the end of the economics section.

¹¹ For mean weekly earnings in the 50 states, see Barry T. Hirsch and David A. Macpherson, *Union Membership and Earnings Data Book: Compilations from the Current Population Survey (2002 Edition)*, Bureau of National Affairs, Washington, D.C., 2002, pp. 30-35. For a 2001 interstate cost-of-living index, see F. Howard Nelson and Rachel Drown, “Survey and Analysis of Teacher Salary Trends 2002” (www.aft.org/salary/download/SalarySurvey02.pdf), American Federation of Teachers, Washington, D.C., July 2003, p. 13. For the total number of non-farm employees in each state in 2001, see U.S. Department of Labor, *Employment & Earnings*, May 2004 issue, pp. 171, 175, 179, 183, 187, and 191.

¹² The Bureau of Economic Analysis calculates disposable personal income as “personal income less personal tax and nontax payments.” A higher share of personal income is disposable in low-monopoly-bargaining-density states, partly because state and local tax burdens are generally lower than in high-monopoly-bargaining-density states. Another important factor is that progressive income tax rates are levied on nominal, rather than real, incomes. According to the AFT union-generated index cited in Footnote 9, living costs are on average 15% higher in the 10 states with the highest share of unionized workers than they are in the 10 states with the lowest share. Therefore, a family in one of the low-density states that has the same spendable pre-tax income as a similar family in a high-density state will typically have to fork over a significantly smaller share of its income to the federal government.

¹³ Disposable personal income data are found in the U.S. Census Bureau’s *Statistical Abstract of the United States: 2002*, p. 644. They are adjusted for cost of living according to the index cited in Footnote 9. To calculate aggregate average per capita disposable income for low- and high-monopoly-bargaining-density states, states are weighted according to their 2001 population. See <http://www.bea.doc.gov/bea/regional/spi/> on the Bureau of Economic Analysis (U.S. Department of Commerce) web site to find state population data for every year since 1969.

This study,¹⁴ which calculates poverty rates that take into account the great disparities in housing costs in the 50 states, was published by Economy.com, a consulting firm in West Chester, Pa. Economy.com has over 500 clients in 50 countries across the globe. Among its clients are the AFL-CIO and other unions, New York City, and at least 10 state governments.

Economy.com's data show that the aggregate, cost-of-living adjusted poverty rate in 2001 for low-monopoly-bargaining-density states was 11.1%, compared to 11.7% for high-monopoly-bargaining-density states.

Nonfarm Job Growth More Than Twice as Fast in States That Union Propaganda Disparages

The negative correlation between Big Labor coercive power and real incomes is consistent. This evidence is devastating to card-check proponents' often-repeated claims that expanding the number of employees under union monopoly control is key for maintaining economic prosperity.

Furthermore, an array of indices that measure growth indicate that the economic damage inflicted by forced unionism is far more severe than income data alone would reveal.

To compare growth rates, it is appropriate to look at the subsequent performances of the states that had the lowest and highest monopoly-bargaining densities in the past.

Over the decade ending in 2002, the 10 states that started out with the smallest share of private-sector workers under union monopoly bargaining enjoyed an aggregate nonfarm payroll job growth of 28.9%, more than double the 13.2% growth among the states where Big Labor wielded the most monopoly power.¹⁵

And the vast majority of the new jobs created in low-union-monopoly states are highly productive, allowing employers to offer important benefits like health insurance and at the same time be duly rewarded for risking capital. Between 1992 and 2002, the number of citizens covered by private, employment-based health insurance soared by 26.1%. Coverage expanded by just 12.6%, less than half as much, in high-union-monopoly states.¹⁶

In addition to enjoying faster long-term growth, low-union-monopoly states are generally better able to weather the storms of economic downturns and uneven recoveries. From 2002 to 2003, when the nation as a whole was stalled in a much-

¹⁴ David Givens, "We Don't Know Enough About Poverty," posted on the Economy.com web site November 13, 2002. Copies are available only to subscribers. However, Economy.com offers free two-week subscriptions to new customers. Data from the study are republished in a fact sheet available at www.nilrr.org/Poverty.pdf on the Institute's web site.

¹⁵ For 2002 nonfarm jobs, see the pages referenced in Footnote 9 of the May 2004 issue of *Employment & Earnings*. For 1992 nonfarm jobs, see the May 1995 issue of the same publication, pp. 142, 145, 148, 151, 154, and 157.

¹⁶ See www.census.gov/hhes/hlthins/historic/hihist4.html, Table HI-4, for U.S. Census data on private, employment-based health insurance in all 50 states between 1987 and 2002.

bemoaned “job-loss recovery,” nonfarm payroll employment in high-union-monopoly states fell by more than 200,000. But payroll employment in low-union-monopoly states grew by more than 50,000.¹⁷

Not surprisingly, by 2003 the average unemployment in the 10 states with the lowest share of private-sector workers under union monopoly was significantly lower than in the 10 states with the highest share: 6.0% vs. 6.4%.¹⁸

The gap would undoubtedly have been far larger had not hundreds of thousands of job seekers recently moved out of high-union-monopoly states to seek opportunities where Big Labor wields less coercive control over the labor market. Between April 2000 and July 2003, high-union-monopoly states lost a net of nearly 900,000 employees and their family members and other citizens to other states.

Meanwhile, a net of more than 950,000 employees and other citizens moved into low-union-monopoly states.¹⁹

Equal Protection For Right Not To Join a Union Is Sound Moral Principle and Sound Economics

Current federal labor policy strongly discourages employers from withdrawing a union’s monopoly-bargaining privilege simply because a majority have signed a petition or cards indicating they no longer wish to be union-represented.²⁰ That’s why employers who don’t wish to be hauled before the NLRB routinely file for an employee secret-ballot vote instead of heeding requests from a majority of employees to withdraw union recognition.

As we have seen above, Big Labor’s use of card checks for the purpose of obtaining monopoly-bargaining privileges is not similarly discouraged under current law. As long as the employer acquiesces, it is encouraged. The Miller-Kennedy bill, which is designed to expand sharply Big Labor’s use of card checks for the purpose of obtaining monopoly-bargaining privileges, represents another large step in the direction away from equal protection for an individual employee’s right to join or not join a union.

In contrast, legislation (H.R. 4343/S. 2637) recently introduced by Congressman Charlie Norwood (R-Ga.) and Sen. Lindsey Graham (R-S.C.) is a step toward equal protection. It would require that private-sector unions clear the hurdle of a secret-ballot election before they are granted monopoly-bargaining privileges. But the National Right to Work Act (H.R. 391/S. 1765), introduced by Congressman Joe Wilson (R-S.C.) and

¹⁷ *Employment & Earnings*, May 2004, *supra*, Footnote 9.

¹⁸ U.S. Labor Department, “State and Regional Unemployment, 2003 Annual Averages” (www.bls.gov/news.release/pdf/srgune.pdf), February 27, 2004 news release.

¹⁹ U.S. Census Bureau, “Cumulative Estimates of the Components of Population Change for the United States and States: April 1, 2000 to July 1, 2003” (<http://eire.census.gov/popest/data/states/tables/NST-EST2003-04.php>), December 18, 2003 news release.

²⁰ See *Levitz Furniture Co. of the Pacific, Inc.*, 333 NLRB 717 (2001) (www.nlr.gov/nlr/shared_files/decisions/333/333-105.pdf).

Sens. Trent Lott (R-Miss.) and Jeff Sessions (R-Ala.) represents a much more fundamental change in labor policy. It would protect employees' unconditional right to refuse to join or pay dues or "fees" to an unwanted union, just as the right to join and pay dues is already protected by current law.²¹

While the record shows that compulsory union membership and dues as well as union monopoly bargaining are correlated with lower real incomes, higher living costs, slower growth in jobs and job benefits, and higher unemployment, the forced-unionism issue is fundamentally one of freedom: Should federal labor law respect the ability of each individual employee to choose whether or not to be represented by and furnish financial support for a labor union?

Poll after poll has shown that nearly four out of five Americans support the individual employee's Right to Work regardless of his or her union affiliation.²²

Union officials who disagree should at least be willing to offer a straightforward explanation why that's based on principle, instead of making unsupported and false claims about the economic impact of union monopoly control over the workplace.

²¹ Go to <http://thomas.loc.gov> and enter H.R. 4343 or S. 2637 into the bill number box to review the Norwood-Graham bill and H.R. 391 or S. 1765 to review the Wilson-Lott-Sessions bill.

²² See, e.g. "Right to Work's Public Support Hits New High," (www.nrtwc.org/nl/nl-53.pdf), *National Right to Work Newsletter*, April 2004, p. 3

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The National Institute for Labor Relations Research is an organization whose primary function is to act as a research facility for the general public, scholars and students. It provides the supplementary analysis and research necessary to expose the inequities of compulsory unionism.

The Institute is classified by the Internal Revenue Service as a Section 501(c)(3) educational and research organization. Contributions and grants are tax deductible under Section 170 of the Code and are welcome from individuals, foundations, and corporations. The Institute will, upon request, provide documentation to substantiate tax-deductibility of a contribution or grant.

* * *

Nothing here is to be construed as an attempt to aid or hinder the passage of any bill before Congress or any state legislature.



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THE PROBLEM

Organized labor has had a profound economic and political impact on the institutions of American power. Yet the far-reaching ramifications of that impact are largely unknown to the public. Academic interest in labor unions and labor relations is at its lowest point in decades.

While there has been a notable proliferation of private interest groups in recent years, none has exposed the excesses of America's union establishment from an academic perspective. Consequently, not enough light has been shed on one of the few remaining forms of tyranny left in America: compulsory unionism.

THE NEED

Labor policy in America has not reflected the will of its citizenry for decades because Big Labor's support in the academic community has allowed it to control debate. As a result, labor unions have not been subjected to the same degree of scrutiny as their counterparts in the corporate world.

In many cases, the interests and concerns of Americans who support the right to work without compulsion are ignored for lack of an academic support structure. Freedom of association has diminished because its proponents frequently are without the analysis and research necessary to effectively make their case.

Obviously, there is an urgent need for an organization that will draw together scholars and economists to perform objective and revealing research into the practices of America's labor unions. The National Institute for Labor Relations Research is such an organization.

THE PROGRAM

1. The Institute's primary function will be to act as a research facility for the general public, scholars and students. It will provide the supplementary analysis and research necessary to expose the inequities of compulsory unionism.

2. It will publish monographs, brochures and briefing papers designed to stimulate research and discussion with easy-to-read summaries of current events. The Institute will also conduct nonpartisan analysis and study for the benefit of the general public.

3. It will render aid gratuitously to individuals suffering from government over-regulation of labor relations and will provide educational assistance to those individuals who have proved themselves worthy thereof.

It is high time that self-interested union officials be confronted with the facts on how their brand of unionism has failed to improve general conditions for workers. With an intensive program of study and education, the National Institute for Labor Relations Research intends to do just that.

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