

The



# LOWDOWN

Edited by Jim Hightower and Phillip Frazer ♦ Vol. 11 No.3 ♦ March 2009

"We will pass to the Employee Free Choice Act. It's not a matter of if—it's a matter of when... We will get this thing done..."

—BARACK OBAMA, 2008 Campaign

Since Reagan, unions have been squeezed out of the workplace

## Time for real workplace democracy— not the phony company version

**LAST OCTOBER, HOME DEPOT COFOUNDER BERNIE MARCUS** blew a gasket, spewing outrage in all directions. "This is the demise of civilization," he exploded. "This is how a civilization disappears. I'm watching this happen and I don't believe it!"

**B**ernie's outburst came during an hour-long conference call with various other corporate executives and their political operatives. The purpose was to collect industry funds for a campaign to kill a piece of legislation called the Employee Free Choice Act (EFCA). Yes, the spark that ignited Bernie's fury, the hellish horror that he insisted would produce America's Armageddon, was a simple labor bill, and he was demanding that the corporate powers rally to save civilization as they know it.

"As a shareholder, if I knew the CEO of the company wasn't doing anything on [EFCA]...I would sue the son of a bitch," he foamed. "If a retailer has not gotten involved in this...he should be shot. They should be thrown out of their goddamn jobs."

He didn't specify whether such traitorous executives should be shot first, then thrown out of their jobs, or vice-versa—but you get the point: Corporate America is working up a feverish panic over the very notion of linking the term "employees" with the concept of free choice.

"It is a political nightmare and a

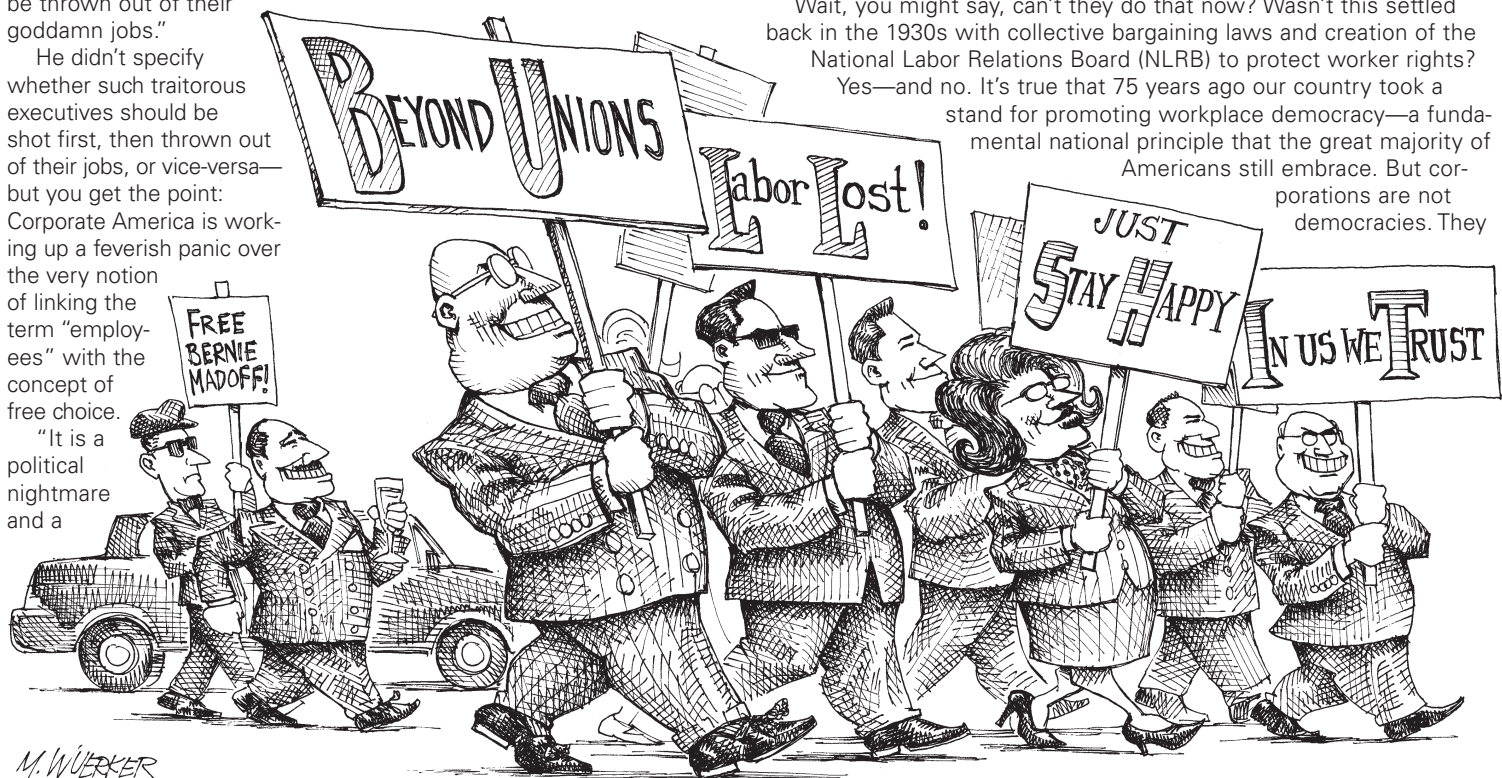
public policy disaster," shrieked a PR flack for a corporate front group opposing this legislation. He even claims that top executives "are ready to riot in the street about it." Now that's exciting! I, for one, would pay to watch a horde of red-faced, Gucci-clad, CEOs rioting, wouldn't you?

### Who needs it?

What EFCA does is to restore workers' freedom to organize themselves into unions so they can bargain with corporate chieftains for fairer wages and benefits. That's it.

Wait, you might say, can't they do that now? Wasn't this settled back in the 1930s with collective bargaining laws and creation of the National Labor Relations Board (NLRB) to protect worker rights?

Yes—and no. It's true that 75 years ago our country took a stand for promoting workplace democracy—a fundamental national principle that the great majority of Americans still embrace. But corporations are not democracies. They



M. WUERKER

## THE LOWDOWN IS 10!



Hightower and I launched the *Lowdown* in March 1999 with an issue about how the World Trade Organization was forcing multinational corporations' version of globalization on, well, the world. Hightower called this "NAFTA on steroids" and blasted President Clinton for letting big business keep the environment and labor out of trade agreements.

That's why today, when people ask us what the *Lowdown* is going to write about now that the Bushites are gone, we say, what we've always written about—how the corporate overlords buy our government so they can keep running the country without us commoners getting in their way.

Obama's election opens doors to the possibility of real change. But remember his words: "I am not the change. You are." Indeed, more of his economic advisors are from Wall Street than from Main Street, meaning we *Lowdowners* will always have to toughen him up.

As Hightower put it in the *Lowdown* nine years ago, "Most politicians would rather try to sandpaper a bobcat's butt than crack down on corporations."

Then he reminded us that most states have the authority to revoke corporate charters and we should push them to do just that. Not that the *Lowdown* is antibusiness. We celebrate the millions of entrepreneurs whose visions have helped hundreds of millions of American workers to create our nation's unprecedented wealth.

Our targets are the corporate jefés who have taken over our political system, destroyed our economy, and now tell us how indispensable they are.

—PHILLIP FRAZER, publisher and co-editor

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Hightower Lowdown

March 2009

are hierarchical, secretive autocracies, and most have never taken to the idea that working families ought to have a say in how they are treated. Thus corporate executives and lobbyists have worked steadily and stealthily over the years to erode these democratic gains, pushing against them especially hard in the past couple of decades.

Indeed, since the Reagan years, there has been a pernicious campaign by corporate interests and their political enablers to spread the myth that unions themselves are archaic entities, no longer necessary or wanted. Sure, there was a need for workers to get organized back in the bad 01' Depression era, but that was so last century. As the corporatists might put it:

*Hey, Bucko, we're all in a modern, global economy today, where we no longer have "workers," we have "associates," and we deal with each of them as independent units, giving America a flexible workforce so we can minimize labor costs and maximize shareholder value. Unions just get in the way of this, don't you see?*

This line of self-serving Corporate Think was articulated last fall by John Engler, the former Michigan politician who's now chief lobbyist (and self-appointed labor theorist) for the National Association of Manufacturers. "In the sophisticated workplaces of the 21st century," he lectured, "you see management and labor often work closely together to beat the competition. When they're doing that, the need for unions is obviated."

What Professor Engler is telling us is that *ergo, ipso facto*, and *ad absurdum*, he's a gooberhead.

The need for unions is hardly obviated when workers have been dramatically increasing their productivity and generating more national wealth, only to be rewarded with falling wages, plummeting purchasing power, elimination of health-care benefits, and cancellation of pensions. Meanwhile, corporate downsizing and offshoring of jobs are rampant, part-time work is the new norm, and job-safety rules have been sacrificed on the altar of Wall Street's profit demands. Note also that CEOs

who so loudly bemoan union wages are paying themselves in the neighborhood of \$10,000 an hour, contributing to the widest income inequality seen in America since the 1920s. This gap between the rich and the rest of us now ranks as the worst in the industrialized world.

These realities not only explain why today's workers need unions, but also why there is such a widespread yearning for them. A 2006 poll of the general public by the Pew Research Center found that 68% of us believe labor unions are necessary to protect working families. In that same year, a survey of workers by pollster Peter Hart indicated that as many as 60 million Americans would join a union tomorrow—if they could.

### Why can't they?

Because the corporate powers, abetted by politicians they fund, have monkeywrenched America's rules for unionizing a factory, big-box store, hospital, bank, food-processing plant, or other workplace. Companies are free to be aggressively hostile to any employee who so much as whispers, "What we need around here is a good union."

And if an employee actually talks to coworkers about unionizing the place, it's common for that person to be harassed, disciplined, demoted, and even fired by corporate managers. Tens of thousands of workers are either disciplined or given the boot each year for daring to support unionization. During organizing campaigns, nearly a third of the companies involved fire at least one worker for union activity, sending a chilling message to other employees.

Such sledgehammer tactics are, of course, illegal, but the corporate-dominated NLRB's enforcement process is so drawn out and grueling that few of the abused workers can afford even to try getting justice. And if a corporation does happen to be cited by the labor-relations board for violations, the penalties are a joke. Management treats them like parking tickets—an inconsequential cost of doing business and a cheap means of stifling workplace democracy and shutting out unions.

Still, against all odds, workers have been persevering, producing

enough support in hundreds of workplaces to force unionization elections. Great! Elections are the very essence of democracy, right? No, not when management thinks workers might win. Once again, the monkeywrenchers have rigged the rules to make a vote on unionizing as unfair to labor as trying to bowl in hell with a snowball.

These are "elections" in which only one side (guess which one) gets to campaign. Under NLRB's distorted rules, union organizers are not allowed to enter the workplace to talk with employees! Nor are they given a contact list, so they have no way to reach all the voters and present their side.

On the other hand, corporate executives can call *mandatory*, closed-door meetings to harangue all employees about the evils of unionization. They can also force every employee to have intimidating, one-on-one sessions with their supervisors to be told why voting for the union would not be a good career move. Corporations bring in outside muscle, too, spending hundreds of millions of dollars a year to hire professional "labor consultants" (aka union busters) who are experts in often-subtle ways of convincing employees to vote no on unionization.

Research by Kate Bronfenbrenner, a widely respected professor of labor studies at Cornell University, finds that 92% of companies involved in organizing campaigns use the mandatory-meetings tactic, 78% require one-on-one sessions with supervisors, and 75% hire union busters to squeeze employees. She also found that half of the corporations facing elections threaten that they will close the plant or store if the union prevails, costing all employees their jobs. (Interestingly, when unions do succeed, only 1% of the corporations actually follow through on this threat.)

Even when workers win these elections, however, they still haven't won. Corporate executives can simply stonewall, unilaterally nullifying the election results by refusing to negotiate in good faith (or at all) to produce a collective-bargaining agreement with the workers. This, too, is illegal, but corporate lawyers can easily draw out the process for years, making it extremely costly. A study published last year in the *Industrial and Labor Relations Review* found that 44% of companies do not agree to a contract after their workers vote to form a union.

## DoSomething!

### ■ American Rights at Work

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To stay informed about the Employee Free Choice movement and to monitor corporate front groups trying to stop it, connect with:

### ■ Freechoiceact.org

## Restoring fairness

The NLRB system is not merely broken, it has been thoroughly perverted. Its original mission was to assure that America's working men and women have "the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection." Far from assuring this right, however, the system today is just another corporate tool for stifling workers.

To break the corporate shackles on America's unionization process, to restore a reasonable balance of power between labor and executives, and to make "workplace democracy" more than a rhetorical sham, unions and their advocates have crafted an alternative method for voting on unionizing. It's called Employee Free Choice, and it streamlines the current cumbersome process by providing three straightforward steps:

**1. Majority sign-up.** If a majority of employees in a workplace sign cards attesting that they choose to form a union, the NLRB must recognize this "card-check election" and certify the will of the workers. This alternative, majority-rule process is used without a problem in Canada and by some U.S. corporations, including AT&T and Kaiser Permanente. If employees prefer, they still can decide to use the current elections system—the choice is theirs, as it should be, since it is their organization.

**2. Contract arbitration.** If workers choose to unionize, their representatives and those of the corporation have three months to negotiate a first contract. If they cannot reach an agreement, a federal mediator is brought in to try resolving the differ-

ences. If no agreement is reached after 30 days of mediation, the disputed issues are submitted to binding arbitration, thus preventing endless foot-dragging.

**3. Penalties against coercion.** No more wristslaps for intimidating, firing, or otherwise pressuring employees in the process of deciding on unionization. It is illegal to use coercion, and this provision jacks up the penalties so there is a real deterrent to violations, including \$20,000 fines for each incident and treble back pay for employees who've been fired, demoted, or otherwise discriminated against for unionizing activity.

## Corporate sanctimony

To attack the card-check approach, corporate executives (who have shown themselves to be champion intimidators of their employees) have suddenly metamorphosed into caped crusaders against employee intimidation! By unions, that is. Beware, they shout, for dastardly union "BOSES" will stop at nothing to browbeat workers into signing those cards. Therefore, in order to protect our vulnerable employees from the possibility of labor thuggery, it is imperative that we maintain the current system of NLRB elections (which leaves browbeating in the trusted hands of management).

To give such naked hypocrisy a cloak of respectability, corporate interests insist that what's really at stake here is [cue the patriotic music and unfurl the stars and stripes] *the sanctity of the secret ballot*. Bernie from Home Depot covered himself with this cloak in a *Business Week* piece he wrote last fall: "[EFCA] eviscerates traditional democratic principles by effectively taking away an employee's right to vote by secret ballot."

It's always touching to hear top management almost sob with concern about employee rights, but

Mr. Marcus is flat wrong. EFCA does not eliminate the secret ballot. The entire NLRB process is left in place, still available if workers choose to use it. EFCA simply restores the original intent of the 1935 National Labor Relations Act. The card-check method was authorized in that law—but, over the years, corporate interests were able to kill it by chiseling into NLRB rules a provision that management can veto the use of card checks. EFCA eliminates that corporate veto, thus expanding the democratic possibilities of working folks.

Of course, secret balloting has a natural appeal, since it is how we elect people to public office. But this is not an election of public officials. It's a group of people deciding whether to form an organization, which is commonly done by a mere show of hands (from those forming a neighborhood association to those forming a local chamber of commerce).

Again, it is their union we're talking about, not management's. A union is an employee organization, and sanctimonious management honchos like Marcus should have no say over the way employees organize themselves. If management is feeling any genuine democratic impulse, how about applying it to their own organizations? After all, corporate managers have become entrenched despots, effectively shutting out the people who actually own the company (shareholders) from their rightful role in decision-making—including, for one fat example, decisions over the outlandish salaries, bonuses, and perks that top managers award to themselves.

The wailing we hear from the executive suites about the card-check process has nothing to do with democratic principles and everything to do with preserving the autocratic power that executives hold over America's workforce. If

## GUESS WHO'S DOING GREEN ENERGY

If you want to see the bold future of alternative energy, don't look to the relatively timid plan coming out of the Obama White House—look to the Persian Gulf.

Yes, the oil-soaked monarchies of such Gulf States as Saudi Arabia, Qatar, and the United Arab Emirates are designing, developing, funding, and building clean, renewable energy. It reconfigures the meaning of "ironic" to see these OPEC oligarchs become the pioneers of a green world.

On January 13, *New York Times* writer Elizabeth Rosenthal reported, "They are aggressively pouring billions of dollars made in the oil fields into new green technologies. They are establishing billion-dollar clean-technology investment funds. And they are putting millions of dollars behind research projects at universities...and setting up green research parks."

In just one small country, Abu Dhabi, the crown prince is investing \$15 billion in renewables—as much as Obama has proposed for all of the United States.

From developing "green concrete" and new solar devices to building a model city that generates no carbon emissions, leaders of the Gulf States are funding breakthroughs that will redefine the world's energy economy. They also are gaining capacity, and market power that could put them in a familiar position: the world's dominant energy provider. Indeed, they candidly state that they intend to be the Silicon Valley of alternative energy.

Time for our leaders to think much bigger than they are now about green energy—and also about democratizing it.

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## BLACKWATER METAMORPHOSED

Blackwater USA, the infamous outfit of corporate mercenaries that became a worldwide symbol of George W's imperious war in Iraq, is gone. Not merely gone from Iraq, but entirely gone. Kaput. Blackwater itself is no more.

Unfortunately, it's gone in name only. Blackwater's privatized army that mired itself in scandal after scandal still exists, but it has "rebranded" itself with a new moniker. Henceforth, the corporation—formerly-known-as-Blackwater is to be called Xe. That's spelled x-e, but it's pronounced "z," which rhymes with "whee"—as in, "Whee, we got rid of that contaminated name, so maybe no one will remember the stuff we did!"

Good luck with that. By whatever name, the company remains the target of four grand-jury investigations in our country. It stands accused of tax fraud, improper use of force, arms trafficking, and overbilling taxpayers. It was fired from its security job with the State Department in January, and Iraq's government has since booted it out of that country entirely. Iraqis remember the 2007 incident in which Blackwater guards gunned down 17 unarmed civilians.

Nonetheless, the corporation's executives hope that the tiny, exotic name of Xe will be big enough to hide Blackwater's notorious past. Unlikely, without a change in the corporate culture of anything goes. After all, it'll still be a for-hire army with profit as its motivating ethic.

I looked up Xe in the dictionary. It's a chemical symbol for xenon, which is "a heavy, colorless, chemically inactive, monatomic gaseous element present in the atmosphere... used to fill luminescent tubes."

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employees can organize themselves (and CEOs have now realized that card-check elections would make this much more feasible), then workers will have a meaningful say in decisions that affect them.

In other words, democracy is exactly what the corporate interests so vehemently oppose. As Wal-Mart's CEO put it last October when asked why corporate managers are dead set against card-checks: "We like driving the car, and we're not going to give the steering wheel to anybody but us."

### The fight is on

With the exception of a few openly hostile outfits like Wal-Mart and Home Depot, most of corporate America is skittish about appearing antiworker (especially given today's sour public attitude toward fat-cat executives), so they are putting millions of dollars into several front groups to lead the corporate fight against the free-choice proposal. Here are a few of them:

**Center for Union Facts.** Launched in 2006 by professional smear artist and corporate lobbyist Richard Berman, CUF is presently running a multimillion-dollar, high-profile assault on unions generally and EFCA specifically. It has placed several full-page ads in the *New York Times* (at \$150,000 a pop) that crudely caricature union leaders as thugs. Berman, who calls himself "Dr. Evil," is known as an ethically challenged spinmeister who has previously fronted political campaigns for Big Tobacco, the alcohol industry, fast-food purveyors, etc. He always refuses to disclose which corporations fund his attacks.

**Americans for Job Security.** This front group sprang out of another front group, called The Coalition, that was

formed by the U.S. Chamber of Commerce in the 1990s to run attack ads against Democrats. AJS is essentially operated by Republican political consultants. Last December, it bought time on most TV networks for an ad titled "Blago," which tried to link EFCA-supporting unions to disgraced Illinois Governor Rod Blagojevich. The AJS website flatly states that the group "does not disclose or discuss its membership"—as AJS officials explain, such disclosure "would distract from the group's message."

**Coalition for a Democratic Workplace.** This group exists to shed crocodile tears for the "sanctity of the secret ballot." It's backed by several corporate consortiums, including the U.S. Chamber of Commerce, Retail Industry Leaders Association (whose biggest member is Wal-Mart), and Associated Builders and Contractors. CDW will not reveal its backers.

**Workplace Fairness Institute.** The soft name glosses over this outfit's hard corporate intention to stop workers from organizing. Formed by corporate lobbyists and PR agents, WFI claims that the card-check option "is an attempt to undermine the democratic system that Americans hold dear." WFI asserts on its website that its funders are "NOT anti-union" but merely prefer to maintain good employer/employee relationships "without the unfair interference of... union organizers." WFI refuses to disclose the names of its funders.

**Alliance for Worker Freedom.** This is an arm of another right-wing group, Americans for Tax Reform. Both were founded by Republican operative Grover Norquist. AWF exists to rally the far-right political network to oppose EFCA. Norquist is not given to much subtlety: "We're going to crush labor as a political entity," he boasts. He will not name the com-

panies financing AWF.

**Save Our Secret Ballot.** SOSB's founders include such corporate-backed, right-wing outfits as the Heritage Foundation, the Goldwater Institute, and Norquist's Americans for Tax Reform. SOSB is going to the extreme of trying to outlaw the card-check process by introducing state constitutional amendments to require secret ballots in all elections, including "designations or authorizations of employee representation." SOSB is unwilling to identify its funders.

### Political will

Across the country, there is broad support for the Employee Free Choice proposal. A Peter Hart poll released this January shows that 73% of the public supports it, including nearly half of Republicans.

The problem is that popular support must endure a gauntlet of naysayers in Washington, including 13,000 corporate lobbyists, a solid line of recalcitrant Republicans, and a contingent of weak-kneed corporate Democrats. Senate Minority Leader Mitch McConnell has already declared that "this is an issue on which there will be no bipartisanship," claiming that the proposal would "Europeanize America." Oh, the horror.

This is going to be a major test for Obama, who pledged unequivocally last year that he would "get this thing done" if he won the presidency. Getting it done will require him to make a choice between working families and his corporate funders, to face down his own corporatist economic advisors, to use real presidential muscle with Congress, and—most important—to rally grassroots support to bring the people directly into the fight.

Yes, he can, but will he?

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