

## High Stakes

### How A New Supreme Court Could Transform the Labor Movement

By David Y. Denholm

*Summary: As Congress considers President Bush's nominee for the U.S. Supreme Court, John G. Roberts, political interest groups are weighing in. What about labor unions? David Denholm explains how the Court sought by President Bush could have a significant impact on the future of the labor movement.*

Organized labor has a lot at stake in the future makeup of the U.S. Supreme Court, and AFL-CIO president John Sweeney knows it. That's why he is worried about President George W. Bush's pledge to place "strict constructionists" on the bench, including current nominee John G. Roberts. Sweeney immediately offered this pledge when Bush nominated Roberts:

In the coming weeks, we will closely examine his entire record for fairness, balance and respect for the rights of working people, including the right of



**Supreme Court nominee  
Judge John G. Roberts**

the federal government to act to establish statutory or regulatory protections. In these areas, we are troubled by some of Judge Roberts' rulings, and we want to learn more about his views.

Sen. Ted Kennedy (D-MA) was more strident. Speaking on July 25 to the AFL-CIO National Convention, he promised that the Democrats would make Roberts' views on labor issues a central part of their effort to thwart the Bush Administration:

In the Senate hearings, we'll question him at length about his views. Will he stand for workers rights and

women's rights and civil rights? Will he stand with the workers of America or the Wal-Marts of America? When a worker is injured, will he stand with corporations—or with average Americans? When insurance companies deny health care—will he stand with the HMOs or with average Americans? When polluters poison our water and our air, will he stand with the polluters—or with the people? And when Benedict Arnold companies use tax loopholes to send jobs overseas, will he stand with corporations—or will he stand with hard-working Americans?

The unions' allies in Congress are focused not on how Roberts will act as a judge but on what will happen if the U.S. Supreme Court exercises judicial restraint, and that frightens them. With additional vacancies on the Court likely before Bush retires from the White House, the chances are good that he will alter the Court—and that it may then review some of the landmark decisions that underpin the labor movement.

#### **Monopoly Threatened?**

Organized labor's approach to employer-employee relations is based on the idea that a union representing the majority of employees is the exclusive representative of all employees. This grant of monopoly bargaining privileges is the centerpiece of our national labor policy and underlies every state's public-sector collective bargaining law.

### September 2005

**High Stakes**  
page 1

**Denholm, Leo Troy on  
AFL-CIO Defections**  
page 4

**Labor Notes**  
page 8

If a narrow reading of the Constitution by a “strict constructionist” Supreme Court were to find that no such monopoly privilege is warranted, the labor movement would go into a tailspin.

The exclusive representation privilege is at the heart of the “right to work” controversy. Unions argue that since the law requires them to represent all employees in a bargaining unit, all employees should be required to pay their fair share of the cost of union representation. If union representation were limited to members only, there would be no controversy.

There was a time prior to the 1935 enactment of the Wagner Act—the original National Labor Relations Act—and even during the early days of that Act, when unions represented only members in collective bargaining. After enactment of Wagner, however, member-only bargaining was limited to situations where a union did not have majority support and was regarded as a prelude to exclusive representation once a majority was obtained.

This change in the law grew out of the experience of the Great Depression:

Accordingly, one of the purposes of the resulting U.S. industrial relations system was the promotion of stability in the workplace and in the ongoing relations between management and labor. Union security clauses [exclusive representation and compulsory unionism] played a central role in ensuring stability. ...The

failure of unions to adapt to this new situation and provide a message and alternative that employees desire is the primary problem faced by organized labor today. (John T. Delaney, “Unions and the Dilemma of Free Choice,” *Journal of Labor Research*, Summer 1998)

Opposition to the Wagner Act was evident from the beginning. The renowned economist Henry C. Simons, who vigorously fought the New Deal and advocated antitrust laws for labor unions as well as businesses, contended that union power

Many problems with collective bargaining arise because legislation creates monopoly positions on both sides of the market, a state of affairs exactly the opposite of what a sound law should strive to achieve.

The social consequences of this bargaining system have been largely debilitating.

A system that allows the employee freedom to deal directly with an employer or to join a voluntary union of his own choosing is far superior to a system in which the state selects the “bargaining unit” under the usual set

---

## If exclusive representation—monopoly bargaining—were ruled unconstitutional by the Court, the entire landscape of labor relations and union power in America would fundamentally change. And there is good reason to believe that it is unconstitutional.

---

does not really depend on violence or even compulsory unionism so much as it does on monopoly:

All bargaining power is monopoly power. Such power, once attained, will be used as fully as its conservation permits and also used continuously for its own accretion and consolidation.

The closed shop, like overt violence, is an invaluable device for acquiring power and yet, as an explicit privilege or contract provision, is of almost no importance for the exercise of power once acquired and strongly held. The notion that labor monopolies can be frustrated or mitigated merely by forbidding the closed shop is, I submit, almost wholly ingenuous and mistaken. (“Some Reflections on Syndicalism,” *Journal of Political Economy*, Vol. LII, No. 1, 1944).

University of Chicago law and economics scholar Richard A. Epstein makes the same argument in his 1995 book, *Simple Rules for A Complex World*:

of complex and indeterminate criteria, which always work against the interests of a political minority.

If exclusive representation—monopoly bargaining—were ruled unconstitutional by the Court, the entire landscape of labor relations and union power in America would fundamentally change. And there is good reason to believe that it is unconstitutional.

### Minority Rights

The origins of this argument are found in the early days of the New Deal and the National Industrial Recovery Act of 1933 (NIRA). The NIRA established a form of state corporatism, with industry councils empowered to set prices and allocate production. Each “code of fair competition” under the NIRA also included provisions for collective bargaining and gave collective bargaining agreements the same force of law as industry codes.

In *Schechter Poultry Corp. v. U.S.* (1935), the Supreme Court struck down the NIRA as an unconstitutional delegation of legislative power to what were essentially

---

**Editor:** Patrick J. Reilly  
**Publisher:** Terrence Scanlon  
**Address:** 1513 16th Street, NW  
Washington, DC 20036-1480  
**Phone:** (202) 483-6900  
**Email:** preilly@capitalresearch.org  
**Website:** www.capitalresearch.org

**Labor Watch** is published by Capital Research Center, a non-partisan education and research organization classified by the IRS as a 501(c)(3) public charity. Reprints are available for \$2.50 prepaid to Capital Research Center.

private organizations. The Court said:

Could trade or industrial associations or groups be constituted legislative bodies for that purpose because such associations or groups are familiar with the problems of their enterprises? ...The answer is obvious. Such a delegation of legislative power is unknown to our law and is utterly inconsistent with the constitutional prerogatives and duties of Congress.

In 1936, the Supreme Court dealt with the issue of exclusive representation again, this time specifically dealing with the issue of granting monopoly powers to labor unions. In *Carter v. Carter Coal Co.*, the Court ruled the Bituminous Coal Conservation Act unconstitutional saying:

The effect, in respect of wages and hours, is to subject the dissentient minority, either of producers or miners or both, to the will of the stated majority, since, by refusing to submit, the minority at once incurs the hazard of enforcement of the drastic compulsory provisions of the act to which we have referred. To 'accept,' in these circumstances, is not to exercise a choice, but to surrender to force.

The power conferred upon the majority is, in effect, the power to regulate the affairs of an unwilling minority. This is legislative delegation in its most obnoxious form; for it is not even delegation to an official or an official body, presumptively disinterested, but to private persons whose interests may be and often are adverse to the interests of others in the same business. ...And a statute which attempts to confer such power undertakes an intolerable and unconstitutional interference with personal liberty and private property. The delegation is so clearly arbitrary, and so clearly a denial of rights safeguarded by the due process clause of the Fifth Amendment, that it is unnecessary to do more than refer to decisions of this court which foreclose the question.

Paradoxically, in the 1937 case *NLRB v. Jones & Laughlin Steel Corp.*, the Supreme Court upheld an identical form of exclusive representation when Congress conferred it upon labor unions in the Wagner Act. Historians note that between 1936 and 1937, President Roosevelt threatened to "pack" the U.S. Supreme Court by expanding its membership. The 5-4 decision in *NLRB v. Jones* has been called

as interstate commerce, or it does not. But as it stands now, federal law poses a contradiction awaiting resolution by the Supreme Court.

Without the convoluted reasoning of the National Labor Relations Act, which extends federal control to most private sector labor relations because labor strife could obstruct interstate commerce, the Court could find unconstitutional the en-

---

**"The power conferred upon the majority is, in effect, the power to regulate the affairs of an unwilling minority. This is legislative delegation in its most obnoxious form...."**

---

"the switch in time that saved nine." Today a willing and independent Court could reconsider the constitutionality of the National Labor Relations Act (NLRA) consistent with prior rulings.

Another factor that could encourage a review of the NLRA is the fact that the 1937 challenge was not brought to the Court by employees. In a related case concerning the Railway Labor Act, the Court ruled that "the railroad can complain only of its own constitutional immunity, not that of its employees" (*Virginian Railway v. System Federation No. 40*, 1937). If a challenge were brought by workers opposed to union representation, the Court might have reason to consider it. (For a more detailed analysis of this argument, see Edwin Vieira, Jr., "Poltrons on the Bench: The Fraud of the 'Labor-Peace' Argument for Compulsory Public-Sector Bargaining," Vol. 18, #3, *Government Union Review*.)

#### **Union Commerce?**

The question of granting labor unions monopoly bargaining privileges is, of course, not the only issue that might come before a more conservative, strict constructionist Supreme Court.

For instance, either the federal government has the power under the Commerce Clause—Article I, Section 8 of the U.S. Constitution—to regulate labor relations

tire scheme under which labor unions are granted monopoly bargaining power and employers are forced to negotiate with a union government-certified as the employees' representative.

Such a finding would be supported by the Clayton Antitrust Act, which exempts unions from antitrust regulation because they *do not* participate in interstate commerce:

The labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor ... organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.

A strict constructionist Supreme Court might also want to reexamine the federal role in regulating state and local public employment. The Court has reversed it-

*(continued on page 6)*

## 'Change to Win' May Not Be All About Reform

By David Y. Denholm

*Note: The following observations are excerpted and edited from several reports distributed by Public Service Research Foundation president David Denholm during the AFL-CIO convention. To obtain the complete set of e-mail reports in original form, send your request to david@psrf.org.*

It was a blow that even its fiercest enemies could not have inflicted: In late July, the Service Employees International Union (SEIU), the Teamsters and the United Food and Commercial Workers (UFCW) walked away from the AFL-CIO. More unions are likely to follow. AFL-CIO president John Sweeney survived the challenge to his leadership and won reelection, but he presides over a dispirited and financially crippled labor federation.

For many months, SEIU president Andrew Stern has led a group of reform-minded union leaders—most recently labeled the “Change to Win” coalition—in rebellion against Sweeney. Stern’s group rejects Sweeney’s failed strategy of relying on political might to reverse labor’s decline. The Change to Win mantra is that the future of the union movement hinges on robust workplace organizing: smaller unions must merge their forces along industry lines and then actively recruit millions of new members.

Is this dispute over strategy the real cause of Change to Win’s historic effort—and the disastrous breakup of the AFL-CIO? Organized labor is in crisis, but its leaders are arguing over the best way to spend union dollars to recover their political influence and economic clout. Is that all there is to it?

### Power Grab

Prior to the start of the national convention, there was some speculation that perhaps Change to Win was not being entirely honest about its real objectives.

Media reports generally credited the rebellious unions with the best of intentions. However, largely overlooked were certain items contained in Change to Win’s recommended “Resolutions and Amendments” for the AFL-CIO constitution issued before the convention’s start. These proposals were quickly jettisoned as soon

as the convention began. But consider how it treats the question of union mergers.

Change to Win sought to empower the proposed Executive Committee to create a “Blue Ribbon Panel on Strategic Mergers.” The panel would evaluate the appropriate jurisdictions for individual unions and propose which unions should merge.

---

**The unions in Change to Win did not have their cards on the table in one other important respect. It’s all about money. Organized labor appears to be in very poor financial condition, and it has been doing its best to hide its faltering finances.**

---

as SEIU and the Teamsters quit the labor federation.

The principal “reform” was a proposal to greatly expand membership in the AFL-CIO Executive Council and then create a much smaller Executive Committee. The effect of this proposal would be to render the Council impotent and concentrate power in the Committee, which would be comprised of the heads of the 13 largest unions. This would give the unions in the Change to Win coalition a great deal more control over AFL-CIO affairs. Added to the Executive Committee would be four at-large members “to reflect the race, sex, ethnicity, religion, age, physical ability, national origin, sexual orientation and gender diversity” of the membership.

No joke. That’s a direct quote from the proposed amendment to the AFL-CIO constitution. Finding those four people might present quite a challenge!

The “Resolutions and Amendments” document is 43 pages long. It’s impossible here to adequately describe its authoritarian character or to outline all the powers it would give the new Executive Com-

mittee. The Executive Committee would then “facilitate” the mergers. If the affected unions balked at the loss of their identity and authority, the Executive Committee could invoke sanctions to bring the recalcitrant ones into line.

On every issue from bargaining demands to political action, the proposed Executive Committee would have the power to encourage AFL-CIO member unions to meet “benchmarks” it established. Failure to act would bring Committee sanctions. Change to Win’s attempted “My way or the highway” power grab made the collapse of union solidarity at the convention all but inevitable.

### Empty Pockets

The unions in Change to Win did not have their cards on the table in one other important respect.

It’s all about money. Organized labor appears to be in very poor financial condition, and it has been doing its best to hide its faltering finances.

Look at the mighty Teamsters. Accord-

**(continued on page 7)**

## Expert Analysis: The AFL-CIO Defections

# Farce and Greek Tragedy

By Leo Troy

Union dissidents and the media have been saying that the split in the AFL-CIO is a result of the Federation's failure to organize the unorganized and halt the long decline of unions' market share in the private sector economy. They say the Federation is under-spending on unionization and over-spending on failed efforts to elect Democrats.

Union critics of John —especially Andrew Stern of the Service Employees International Union and James Hoffa of the Teamsters—further say that they have withdrawn from the AFL-CIO to dramatize their opposition to these policies. The reforms they demand include a refund of part of the affiliates' per capita membership fees so that individual unions can spend more on organizing instead of on political action.

In truth, the reformers' charges are farcical and their remedies hollow: Membership fees to the AFL-CIO are a very small fraction of affiliates' total expenditures (and income). Moreover, it's a rare affiliate that ever paid the dues of its full membership to the Federation, and that includes Stern's and Hoffa's unions. The affiliate unions usually retain most of their income, which they are free to use for any purpose, including organizing. Their charges against the Federation's failure to organize are specious. The basic responsibility and authority for organizing has always belonged to each affiliated union, not to the Federation. (Incidentally, did either Stern or Hoffa poll their members to determine their views on disaffiliating from the AFL-CIO? Some union members, reacting to their autocratic rule, are asking for continued affiliation with the Federation.)

The real dispute here is over the leadership of the Federation. And to no one's surprise, John J. Sweeney has been re-elected AFL-CIO president.

While the organizational infighting is a farce, the effort to depose Sweeney imitates Greek tragedy. Sweeney took a small private sector union, the Building Service Employees International Union, and built it into the Service Employees International Union, a giant union whose numbers are in government. He passed his achievement on to Andy Stern, the man who would be king. That's Greek tragedy Part I.

Greek tragedy Part II is this: A decade ago, in 1995, Sweeney orchestrated the ouster of AFL-CIO president Lane Kirkland, his predecessor, on identical grounds—failure to organize—that Stern has recycled against Sweeney! Had Stern overthrown Sweeney, would it make a difference? Would the more than 90 percent of unorganized private workers in the U.S. discover the benefits of unions? In a word, “no.”

No matter who is president of the Federation, union membership and density will continue its long-run decline. Worse, not only has the total number of workers unionized and the share of workers unionized fallen, but so has the number of unions and, most importantly, the number of union locals. Numbering about 60,000 in 1960, the number of current local unions has dropped by about one-third. For American unionism, no structural component is more essential to its vitality and stability than the local union.

Of all the industrialized G-7 countries, none has a private sector union movement that has escaped the loss of members and the loss of union density in the workforce. All of them—including Canada—have

seen government unions supplant private sector unions in numbers, importance and density. In fact, the U.S. is the only country in which private sector unions still represent a majority of all organized workers, but not for much longer.

The reasons for the worldwide decline in private sector unionism are common to all nations: There is competition in international and domestic markets, and structural changes in the labor market (industrial, occupational, gender, geographical). Joseph Schumpeter's theory of creative destruction (that capitalist enterprise creates new consumer goods, new methods of production and transportation, new markets and new forms of industrial organization to replace the old) explains why and how these forces work.

By contrast, public policy and employer opposition have played minor roles in the decline of unionism. Pro-union labor laws have been of limited benefit to private sector unions, even in Canada, while employer opposition, far more intense in the U.S. in the 1930s, has not been major factor.

More important *is employee* opposition to unionism: the fact is most workers don't want union representation. And this brings us to the alleged organizing achievement of Stern's SEIU and Hoffa's Teamsters. The SEIU is predominantly a public sector organization built by merger and acquisition—or what I call “organizing the organized.”

Consider this example from California. When Sweeney was its president, a



**(continued on page 7)**

## High Stakes (continued from page 3)

self on this issue several times in the last 40 years. The existing precedent is *Garcia v. San Antonio Metropolitan Transit Authority* (1985), under which the Court applied the minimum wage and overtime provisions of the Fair Labor Standards Act to public employees. This decision wreaked havoc in many areas of public employment, particularly in fire protection where paid full-time firefighters are not permitted to also serve as volunteers in departments within their employer's jurisdiction, lest they violate overtime regulations.

This issue is of particular importance when considering the constitutionality of pending federal legislation endorsed by labor unions, which could use the power of the federal government to impose unionism on state and local public safety departments in states that do not already give public sector unions monopoly bargaining privileges.

Finally, a less activist Supreme Court might reconsider the 1973 decision in *U.S. v. Enmons*, which exempted union extor-

tion from the federal anti-racketeering law so long as the goal of the extortion was a "legitimate" union objective.

### On the Other Hand...

The kind of transformation that Presi-

to union reformers that reached the Supreme Court repeatedly in the later half of the 20th Century, is that of the use of compulsory union dues for politics. In the key decisions, including *Communications*

---

**Finally, a less activist Supreme Court might reconsider the 1973 decision in *U.S. v. Enmons*, which exempted union extortion from the anti-racketeering law so long as the goal of the extortion was a "legitimate" union objective.**

---

dent Bush seeks for the U.S. Supreme Court could dramatically change how the federal government relates to labor unions. Union power is at stake.

But nothing is for certain with judges confirmed to lifetime seats on the Supreme Court, and there is a rather interesting irony about President Bush's determination to put a "strict constructionist" who won't "legislate" from the bench" on the Court. One of the issues most important

*Workers of America v. Beck* (1988), it has been the liberal members of the Court who have endorsed the rights of employees to refuse to support union political and ideological activity.

We may be headed, as they say, for very interesting times.

*David Y. Denholm is President of the Public Service Research Foundation in Vienna, Virginia.*

www.educationwatch.org

## Following the money... ...in the education debate.



Education Watch

**SEARCH** the online database of over 200 non-profit organizations

**DISCOVER** who's funding whom, who's behind the policies, and who to watch

**KNOW** that EducationWatch.org is the educator's, activist's, analyst's, and reporter's most accurate, in-depth information source.

**CRC**  
CAPITAL RESEARCH CENTER

1513 16th Street NW,  
Washington DC 20036

(P) 202.483.6900  
(F) 202.483.6990  
1.800.459.3950  
www.capitalresearch.org

## **'Change to Win'** (continued from page 4)

ing to its 2004 report to the Department of Labor, the union had assets of \$147.8 million—and liabilities of \$156.3 million. Its 2004 income was \$149.0 million—and its expenses were \$156.9 million. In 2000 the union reported assets of \$101.2 million and liabilities of \$80.5 million. Of course, it's hard to give full credit to these numbers given the character of past union financial reporting—and the character of the Teamsters. Still, the union looks broke. If it were a private business, it would be a candidate for bankruptcy.

Is it any wonder that the Teamsters were scratching and scraping to get a 50 percent refund of its per capita dues to the AFL-CIO? That was another Change to Win proposal. But under the best of circumstances, the refund proposal would return to the Teamsters only about \$5 million, or 3.3 percent of the union's annual income.

The reelection of John Sweeney is less than triumphant. The AFL-CIO now needs a new budget that will contain either more income or more drastic cuts to compensate for the loss of payments from the SEIU, Teamsters and UFCW. It's likely that conditions at AFL-CIO headquarters at 16th and H Streets across from the White House on the other side of Lafayette Park will only get worse in the days, weeks and months ahead. Sweeney must worry that other unions are debating whether or not to leave the AFL-CIO.

Union economics also comes into play. There's talk that the AFL-CIO may propose a dues increase to repair the damage. (The way AFL-CIO leaders see it, when fewer workers want to buy their outdated products, the answer is to charge more for them.) Watch for more hard-pressed unions to leave the federation.

### **Politics of Organizing**

Undoubtedly John Sweeney is concerned about labor's declining numbers, both in members and money, and he has given lip service to the Change to Win agenda of increased union organizing. But like its Change to Win adversaries, the AFL-CIO avoids the truth about labor's

downward slide.

It is interesting to note that none of the major public sector unions joined the Change to Win coalition. AFSCME is sticking by the AFL-CIO. Why? There is an easy and obvious answer: Public sector unions do not really need to organize. They rely on politicians, who authorize government offices to collect and distribute member dues to the unions. What is there to complain about when it's all handed to you on a silver platter?

Despite their denials, the AFL-CIO increasingly relies on political organizing instead of workplace organizing, and on lobbying politicians instead of on collective bargaining. Sweeney wants private sector unions to have what politicians have given public sector unions. The changes in law he has in mind would further deny workers the right to choose whether to unionize. That's what Sweeney means when he says that the AFL-CIO has to politic instead of organize. Until unions can change the law, they won't be able to effectively organize.

### **Surfer and the Surf**

The defection of unions from the AFL-CIO is unlikely to accomplish anything. Change to Win won't revitalize the labor movement because it's fighting little more than an internal battle over the depleted spoils of labor's past successes.

What unions fail to understand is that the security of property rights and a dynamic market economy have created the progress American workers enjoy. Certainly there are "three D" (dirty, difficult and dangerous) jobs and poor people. But what's more remarkable are the enormous and widespread advances in the U.S. standard of living.

Labor unions have surfed the wave of capitalism. Or, to use a different simile, they are like the rooster, convinced that its crow causes the sun to rise.

*David Y. Denholm is President of the Public Service Research Foundation in Vienna, Virginia.*

**Please remember Capital Research Center in your will.**

## **Greek Tragedy** (continued from page 5)

100,000-member public employee group joined the SEIU to prevent raids on its members. During Stern's presidency, officials for Los Angeles County virtually handed over some 80,000 home care workers to the SEIU, an action that was mimicked by other public jurisdictions. And still the health care and social services sectors remain less than ten percent organized in the U.S. The private sector is largely beyond Stern's efforts to unionize it. Even janitors and service workers, Stern's favored targets, are only 18 percent organized, and many of them are government workers. Hasn't Stern cast stones from a glass house?

The same holds true for Hoffa: Truck drivers are only 18 percent organized and the trucking industry is 21 percent unionized. For decades government regulation of the trucking industry promoted union growth, but after deregulation, market competition reduced the Teamsters' power and numbers. The Teamsters union once recorded more than 2 million members, but currently it is thousands of members below that count. Meanwhile, the Teamsters union is trying to organize so many industries outside trucking (including government) that it qualifies as a "General Union" (i.e., any worker is fair game).

Leaders like Stern and Hoffa have proclaimed their dedication to organizing low paid workers. If so, let them return to Sweeney's failed goal of a decade ago, the organization of the strawberry workers!

Finally, as to the Democrats and politics: Because organized labor's in-kind support of the Democratic Party outweighs its direct financial aid, I have long identified the Democrats as the de facto Labor Party of the U.S. The departure of the Stern and Hoffa from the AFL-CIO does not change that status.

*Leo Troy is Professor of Economics at Rutgers University-Newark and an expert on labor relations. His numerous articles and books include *The Twilight of the Old Unionism* (M.E. Sharpe, 2004) and *Beyond Unions and Collective Bargaining* (M.E. Sharpe, 1999).*

# Labor Notes

## **Union Suit Blocks Homeland Security Workplace Rules**

Responding to a lawsuit filed by five federal employee unions that oppose new workplace rules for the Department of Homeland Security, U.S. District Judge Rosemary Collyer ruled that the plan does not sufficiently allow for workplace bargaining and employee rights. Department officials are determining whether to scrap the Bush administration's proposed personnel system, developed over two years as part of the Bush administration's effort to improve government efficiency and supervision of federal employees, especially those in sensitive security-related positions. Collyer's ruling frustrates Administration plans to limit union bargaining and employee appeals to the Merit Systems Protection Board, but it does not directly affect its plans to replace the rigid 15-grade General Schedule pay system with one that better rewards good performance. The ruling also has not halted the Pentagon's move to the similar National Security Personnel System.

## **NJ Gubernatorial Candidate Forgave Large Loan to Union Leader**

U.S. Sen. Jon Corzine (D-NJ), a candidate for New Jersey governor, is under fire for lending a union leader \$470,000 three years ago, then forgiving the debt. At the time he made the loan, Corzine was romantically involved with Carla Katz, president of Communications Workers of America Local 1034, New Jersey's largest state employees union. Court documents show that Corzine forgave the loan one week after announcing his candidacy for governor and months after he stopped dating Katz. "I don't think there's a conflict," Corzine told *The Washington Post*.

## **Mechanics Union Fights Northwest Airline Layoffs**

The Aircraft Mechanics Fraternal Association, which represents 4,500 mechanics employed by Northwest Airlines, has been fighting Northwest's plans to layoff about 2,000 mechanics and hire contractors to replace the mechanics as well as cleaners and custodians. As this issue of Labor Watch went to press, both sides were attempting to avoid a threatened strike in late August. Northwest is the only major airline that still employs its own cleaners and custodians. Investment analysts cautioned that Northwest's planned \$1.1 billion in cuts might not be sufficient for the company to avoid bankruptcy.

## **Qwest Deal With Union Narrowly Avoids Strike**

A threatened strike by 25,000 Qwest Communications employees in 13 states was avoided with a contract agreement reached nearly three days after the employee union's contract expired. The contract includes a 7.5 percent wage increase over three years, an eight-hour limit on mandatory overtime, and shared health care costs.

## **Poll Shows Most Americans Not Likely to Unionize**

More bad news for labor unions hoping to expand their membership: A new Zogby International poll commissioned by the Public Service Research Foundation shows that just 35 percent of non-union workers in America might support unionizing their workplace, but fewer than half (16 percent) would definitely vote for a union. The June survey of 802 workers nationwide has a margin of error of +/-3.6 percentage points. Other findings include:

- Opposition to unionizing holds in every region of the country, with the largest majorities in the Eastern U.S. (61 percent) and Central/Great Lakes Region (60 percent) where unions have traditionally been strong.
- Most workers (60 percent) approve of labor unions in general, while just 52 percent say that unions remain necessary. But despite these general impressions, a 46 percent plurality of workers believe organized labor exerts too much influence on government, and 85 percent believe that antitrust and racketeering laws should apply to unions.
- Most workers (56 percent) agree that rules requiring states and municipalities to grant contracts to unionized construction companies amounts to discrimination against the 80 percent of construction workers who are not unionized.
- Most workers (59 percent) favor allowing management to provide information about potential negative impacts of unionizing to their employees, and oppose government "neutrality agreements" that would bar firms that contract with the government from distributing such information.