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Union Busters Gearing Up for a Big Payday on EFCA Solidarity America By John Funciello

BlackCommentator.com Columnist

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Union busters are set to come out of the woodwork over consideration by the U.S. Senate of the Employee Free Choice Act, the law that would make it a little easier for Americans to organize unions in their workplaces.

Already, the section of EFCA that had Corporate America and the right wing in an uproar, so-called card check - which would allow a union to form if a majority of workers signed union cards - has been eliminated from the legislation, but that didn't stop business associations from finding tragedy in the rest of the bill.

A trade newspaper for the trucking industry, *Transport Topics*, reported early this month that union busters warned a gathering of fleet executives in Las Vegas that, even with the elimination of card check, "...mandatory arbitration is probably the most pernicious part of the Employee Free Choice Act."

Peter Kirsanow, a former member of the National Labor Relations Board, now a member of a Cleveland law firm, reportedly told the gathering that all previous U.S. labor laws combined "...probably don't have the kind of impact the Employee Free Choice Act may have."

The mandatory arbitration section is the fear point for employers. Under current law,

even if workers organize, there is no requirement that management reach an agreement, ever. Rather, they can "surface bargain," that is, they can sit at the bargaining table and talk about Ohio State football or anything else for a year or two or more and never come to an agreement.

Often, when that happens, a decertification petition is circulated sometime soon after the first year and the fledgling union is fighting for its life just to survive, let alone getting a first contract.

This is the time for the employer to turn loose its "union avoidance" consultants - union busters - and let them go to work, showing that the union can't do anything for them and, even so, they'll still have to pay dues and maybe, someday, go on strike. They're good at this and, today, the union busters often are hired even before any sign of a union organizing campaign, to size up the workers and see where the weak spots are and how the rank-and-file can be divided without making it look as if the boss did it.

Although the right to form unions is enshrined in American law and in the Universal Declaration of Human Rights - which a majority of the world's nations endorses - organized labor is one of the first institutions that corporations, armies, and corrupt politicians go after in trying to wrest control of a nation.

Unions in the U.S. have vast experience facing the powers-that-be which want to have free rein in operating their businesses and industry. Here today, however, it doesn't happen as much through the use of overt violence, as in some developing countries. Rather, it is done using the shortcomings of the law (or by illegal means that are rarely prosecuted). Woody Guthrie said it most succinctly: Some rob you with a six-gun, others with a fountain pen.

Perhaps the hysteria of American business interests over EFCA is warranted to a small degree, because even a watered-down version will give workers a boost and could indeed change the corporate landscape. Kirsanow told the gathering in Las Vegas that, under EFCA, if an agreement is not reached within 120 days, the matter goes to arbitration and the resultant contract will be valid for the next two years. This would be a profound change for workers who sit across from management negotiators with no way to convince them to come to agreement on a contract.

No doubt, some of the thousands of union-busting firms in the U.S. are visiting employer group meetings the same as that in Las Vegas this month, delivering the same message and warning that tough times are coming. They are certainly in the business of rustling up business.

It has been tough times for workers and unions for many years and EFCA would level the playing field somewhat. The late Marty Levitt, author of *Confessions of a Union Buster*, underwent a transformation after he had been engaged in the nefarious profession for 20 years of his adult life.

He was moved to repent, to admit the underhanded methods that were almost universally used by union busters to stop workers from representing themselves at the bargaining table. He said that, in 100 campaigns, he only lost five to union workers. That's how difficult it is to organize a union against the power of the employer and the army of consultants waiting to crush their efforts to gain a measure of equality in the

workplace. Levitt made the rounds of union meetings and conventions, speaking wherever he could to inform people of the kind of class war that was under way in America.

When the research assistants were organizing several years ago at the State University of New York at Stony Brook, through the Graduate Student Employees Union Local 1104 (Communications Workers of America), they estimated that the union-busters were charging about \$800 an hour.

Also, they pointed out during their campaign that, the Research Foundation, part of the SUNY system, retained 50 percent of the grants received by professors throughout SUNY. One of their demands was that SUNY not use that grant money to try to break their effort to organize a union.

There are thousands of ways for employers to deny workers' rights under U.S. labor law and they will use as many of them as possible - or they can afford - especially in the coming weeks when EFCA is being considered, first in the Senate, then in both houses of Congress.

Richard Trumka, elected president of the AFL-CIO in September, has said that he has not given up on card check and some observers believe that there is a slim chance that it will be restored to the final bill.

Corporate America is worried about what might replace card check, a "quickie" election, which would be required within five days to two weeks after a petition is filed. There would barely be time to launch a full-blown anti-union campaign, directed by union-busting consultants. Even worse, in the employer's view, the union could for the first time have access to workers, in the workplace on the same days that the boss addresses the workers.

Everybody is getting into the act of thwarting unionization of workers. In addition to the usual crowd - U.S. Chamber of Commerce, National Association of Manufacturers, National Federation of Independent Business, and all of the right-wing think tanks - there are ever new manifestations of opposition.

Something called Agriculture for a Democratic Workplace formed last spring to oppose EFCA, consisting of 40 groups in agribusiness, all very concerned that their largely underpaid and exploited workers would lose their right to an election if EFCA (if card check were included) became the law of the land. That is, of course, on the few occasions when the same employers allowed an election to be held at all.

The world in which we find EFCA being debated is much the same as in the past several generations: Employers have most of the power and the workers have little. Corporate America would like to keep it so, because, that way, the money will keep floating to the top 1 percent of the income pile in the U.S.

EFCA is creating a lot of employment...for union-busting consultants, not many of them with the honesty and integrity to admit what they are doing to their fellow Americans, as Marty Levitt did. Ultimately, he was sorry for what he did.

Union-busters of today, if they are sorry for anything, are sorry that they can't make

more money doing what they do.

BlackCommentator.com Columnist, John Funciello, is a labor organizer and former union organizer. His union work started when he became a local president of The Newspaper Guild in the early 1970s. He was a reporter for 14 years for newspapers in New York State. In addition to labor work, he is organizing family farmers as they struggle to stay on the land under enormous pressure from factory food producers and land developers. Click [here](#) to contact Mr. Funciello.



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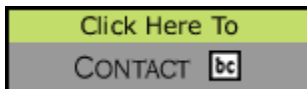
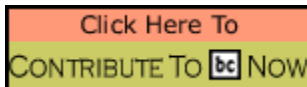


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