



# **When Voting Isn't Private:**

The Union Campaign Against Secret Ballot Elections

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## Executive Summary

The best decisions are made with the best information—and without coercion. That is true for employees deciding whether to join a union. It is equally true for politicians who are being pressured by labor leaders to codify the union organizing method known as “card check,” a scheme rife with intimidation, coercion, and confusion.

This report examines two methods by which employees choose (or do not choose) union membership. The evidence is clear: secret ballot elections are a far superior method of deciding unionization than the “card check” process. This veritable mountain of evidence comes from the following:

- **Employees** who have been the targets of intimidation or the victims of confusion during union organizing drives
- **Public opinion polling**, which shows that 78 percent of Americans think secret ballot elections are the most democratic method of choosing representation, while 87 percent agree that “every worker should continue to have the right to a federally supervised secret ballot election when deciding whether to organize a union”
- Former members of the **National Labor Relations Board**
- **The Supreme Court**, which has said the card check system is “admittedly inferior to the election process”
- Written statements in support of secret ballots from the same **politicians** who are now trying to end such elections for employees
- Documents—from the same **unions** that are now trying to end secret ballot elections for employees—showing that cards are not a reliable method of discerning an employee’s true preference
- **Labor union officials** who have required secret ballot elections in dozens of cases for their own staff employees seeking to join a union



**Union-funded politicians  
were elected last week  
by secret ballot. Incredibly,  
they support eliminating  
secret ballots when it  
comes to union organizing.  
Hard to believe?**

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and *The Washington Times*

As union officials and their allies campaign to take away secret ballots, they rely on a collection of dubious talking points. As this report finds, their criticisms of government-overseen elections are almost always overblown. In the case of the most important statistic—the rate at which union supporters are fired—union allies have overstated the truth by a factor of ten. In reality, **an analysis of federal government data conducted exclusively by the Center for Union Facts found that fewer than 2 percent of election drives involve wrongful termination.**

The current success of political attempts to end private ballots in favor of publicly signed cards can be understood in light of America's altered political landscape. The head of one labor-funded organization recalled the old line: "Reward your friends and punish your enemies." And the message to Congress has been heard.

The real punishment, however, will fall squarely on working Americans.

## Introduction

After the 2006 union-funded campaign that spent an estimated \$100 million of members' dues to successfully recapture Congress for Democrats, the headlines blared: "US unions want election success payback," "Labor sees opening to reverse declines," "Labor to push agenda in Congress it helped elect." Union officials' top priority? Ending the secret ballot elections process and the associated protections for employees choosing whether to join a union. In March 2007, House Democrats quickly approved the so-called Employee Free Choice Act.

Facing declining membership, union officials have turned to the highly questionable practice of organizing new members through a process called "card check." With card checks, paid union organizers seek to pressure workers to sign cards saying that they support union representation. This persuasion has

**“There’s no  
reason to subject  
the workers  
to an election.”\***



Kim Jong Il  
North Korean Leader



Fidel Castro  
Cuban Leader



Bruce Raynor  
American Union Leader

## Who said it?

American workers reject unions in almost half of all secret ballot elections. Find out how union leaders are forcing people to pay dues by trashing democracy.

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\*Bruce Raynor, President of UNITE-HERE, as quoted in *The New York Times*, May 2003

Full-page advertisement in *The Washington Post*



been documented as frequently including deception, coercion, and harassing visits to workers' homes.

Current law dictates that an employer can either choose to recognize a union when the employer believes there is significant support from employees or call for an election to make certain that the employees' true feelings are recognized.

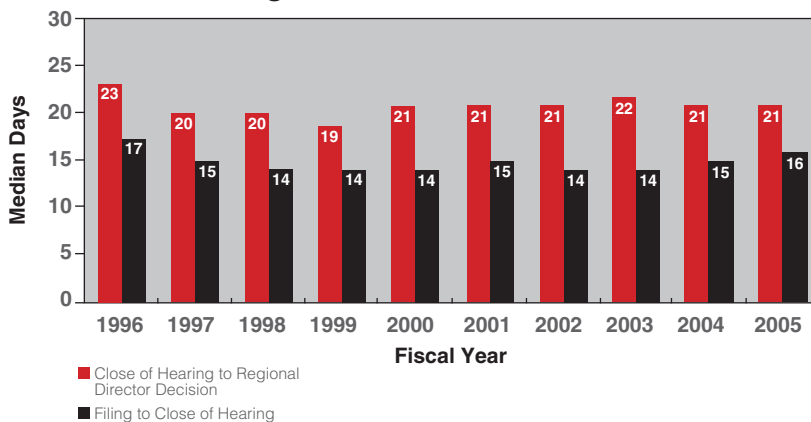
Why would a business deny its employees the opportunity to conduct an anonymous, government-supervised vote? In those relatively rare instances in which an employer has agreed to card check, the employer itself has often been under union pressure—which includes threats of a negative public relations campaign intended to injure a company's reputation until the company capitulates.

Most often, when presented with these cards, employers have exercised their judgment to call for a representation election of employees using private ballots. This is because—as even the AFL-CIO has acknowledged—signed cards are not a reliable signal of an individual's true interest in joining a union. Individuals who may have no desire to join will frequently sign cards under pressure or false promises—or simply to get the organizer to stop harassing them.

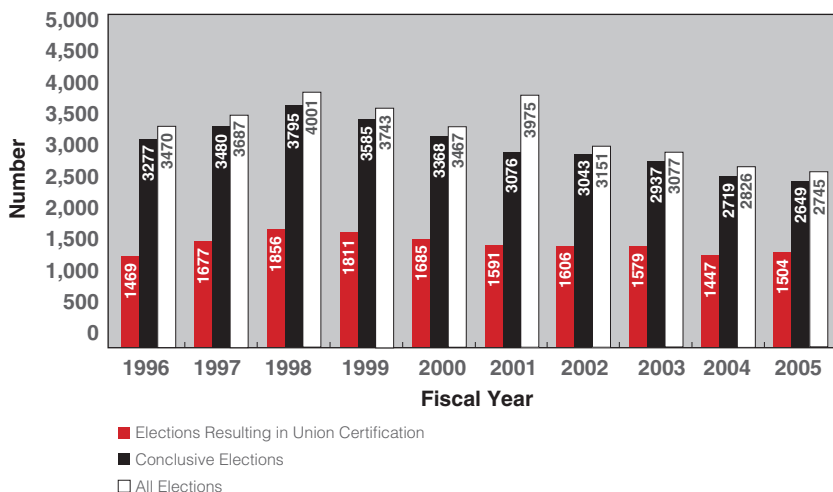
As an August 2006 *Hartford Courant* editorial explained, “[n]ot surprisingly, the card-check procedure almost always results in a union victory because the union controls the entire process.” But the real cost is paid by working Americans—the card check process steals workers' rights to personal, anonymous votes on whether or not they want to pay dues to a union and on all that unionization entails.

As union lobbyists attempt to change American labor law to effectively end traditional secret ballots, the lobbyists employ a faulty premise. They claim that the loss of a private ballot is necessary because employers drag out elec-

### Time Required to Process Representation Cases from Filing of Petition to Issuance of Decision



### Representation Elections Conducted (Based on Cases Closed During Year)



2005 NLRB Annual Report



tions and intimidate employees during that process. But statistics from the National Labor Relations Board (NLRB) indicate that the vast majority of elections are held in a timely manner. Conversely, statistics about intimidation originate primarily from union-affiliated surveys of paid union organizers.

A long public record demonstrates greater problems with the card check method and its frequent companion, the so-called neutrality agreement. In “neutrality,” the voices of employers are silenced, while unions are legally free to make promises of benefits, wage rates, etc. that they may never be able to keep.

Using internal union documents, official federal government data obtained through Freedom of Information Act requests, correspondence from members of Congress, public opinion data, news accounts, and more, this report documents the myths and truths surrounding the current public policy debate over union organizing practices.

## Shifting Strategies

In January 2006, UNITE HERE president Bruce Raynor reported that 90 percent of the new members his union obtained over the previous year had been gathered through “alternative means” that avoided elections supervised by the government. The AFL-CIO’s organizing director told *The Wall Street Journal* in August 2005 that at least three times as many workers were unionized through the “card check” method as through traditional secret ballot elections in 2004.

To listen to union officials, it would seem that they are unable to organize new members through NLRB elections. As United Food and Commercial Workers president Joe Hansen explained in a 2006 interview with the Bureau of National Affairs, union officials are turning away from traditional elections because “we can’t win that way anymore.”



CUF's "Election" TV commercial

But statistics from the NLRB show that in its fiscal year 2005, 94 percent of representation elections were conducted within 56 days, with unions winning 61 percent of certification elections. And while the number of representation elections (including certification and decertification attempts) decreased by 19 percent between 1996 and 2005, the number of elections resulting in union certification actually increased by 2 percent.

Few would complain about winning six of 10 fair elections or increasing the number of elections resulting in certifications, but union organizers aren't looking for fair elections. They want big numbers. And they want them now.

## History

Union officials hoping to rebuild their waning membership are seeking to codify the often intimidating and anti-democratic union recognition method of “card check/neutrality.” One rhetorical point on which they rely is the claim that the legal recognition of card check would return America to the grand old days when the National Labor Relations Act was first created. Yet this overlooks the history of that law and subsequent findings by legislators, the courts, and victimized employees alike.

Between 1935 and 1947, the National Labor Relations Act allowed for secret ballot elections or “other suitable methods” to determine union recognition. Union spokespersons often note this fact, but stop here. They fail to acknowledge that in representation cases handled by the NLRB, only an estimated 20 percent were through the card check method.

In 1947, legislators recognized significant flaws in the law that allowed for abuse of American employees. One significant change removed language that allowed for “other suitable methods” such as card check to be used for union recognition through the NLRB. Since 1947, secret ballot elections have been recognized as the preferred method of recognizing union representa-

# Why Is a Union Like a Roach Motel?



## Because Getting in Is the Easy Part.

We have the story behind the new union  
scheme to force employees into unions  
without the right to vote.

**Trapping bugs is fine.  
Trapping people isn't.**



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The 12.5 million facts they don't want you to know

Full-page advertisement in *USA TODAY*  
and *The Washington Times*

tion. That year, the House Education and Labor Committee explained the rationale for improving labor relations laws:

For the last 14 years, as a result of labor laws ill-conceived and disastrously executed, the American workingman has been deprived of his dignity as an individual. He has been cajoled, coerced, intimidated, and on many occasions beaten up, in the name of the splendid aims set forth in section 1 of the National Labor Relations Act.

Even the working man seeking to join a union, the Committee noted, had fallen victim to abuses that elections help remedy:

He has been forced into labor organizations against his will. At other times when he has desired to join a particular labor organization he has been prevented from doing so and forced to join another one. He has been compelled to contribute to causes and candidates for public office to which he was opposed.

## Union Myths from Union Mouths

### **Lies, Damn Lies, and Damn Statistics**

Union officials rely on statistics generated by friendly and well-funded researchers, often at academic institutions, to claim that there is widespread oppression of workers' rights.

The most frequently cited data have been produced by Cornell University professor Kate Bronfenbrenner. She published a study alleging that employers fire employees in about one-quarter of all organizing campaigns and about half of the companies allegedly threaten employees with the partial or full shut-down of operations if the sites were unionized. The underlying data are from a survey of paid union organizers rather than NLRB data. It is incredible that anyone would cite this as an unbiased story.

## Should Democracy Stop at the Border?



Members of Congress have warned Mexican government officials that secret ballots for union representation offer the only “real democracy” for Mexican workers. *Yet, the very same Representatives oppose secret ballot elections for American workers!*

**Union chiefs are  
pressuring politicians to  
eliminate the secret ballot  
vote for American workers.**

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And not just the survey should be considered biased. Bronfenbrenner herself is a former union organizer. Her university's Institute for Labor Research received \$577,053 from unions in 2005, according to Department of Labor financial disclosure files.

Bronfenbrenner's work was rehashed in December 2005, when University of Illinois at Chicago professors released an unpublished study commissioned by the union-funded American Rights at Work (ARAW) organization. The principal findings were that in NLRB elections, 30 percent of employers allegedly fired workers when they engaged in union activities, 49 percent threatened to close or relocate all or part of the business if workers elected to form a union, and 82 percent used consultants to design and coordinate their anti-union campaigns.

Again, these stats were based on interviews with union staff and paid for with union money. The study was based on surveys of organizers in 62 Chicagoland elections in 2002, as well as case studies consisting of interviews with 25 union organizers and 11 anonymous employees. ARAW, the sponsoring organization, doesn't bother to hide its biased agenda. ARAW's president is former Rep. David Bonior, whose failed 2002 run for Michigan governor received 55 percent of its PAC contributions from unions, according to the Center for Responsive Politics. ARAW's board includes AFL-CIO president John Sweeney and union activists. Unions gave ARAW \$1,866,500 in 2005. While in Congress, Bonior voted with the AFL-CIO agenda on key votes 96 percent of the time.

A 2007 study by the labor-affiliated Center for Economic and Policy Research (CEPR) claimed 23 percent of all unionization campaigns since 2000 involved an illegal firing. But the authors openly admit that the crux of the study relies on "a crude 'probability' that a pro-union worker will be fired" that was originally derived from data collected in the early 1980s. The authors also write that the "NLRB does not report the number of workers fired illegally in connection with union election campaigns." But the



CUF's "Election" TV commercial

NLRB does in fact track that statistic in its Case Activity Tracking System (CATS) database.

Finally, the CEPR study tabulates only the number of actual elections held, rather than the number of election petitions submitted to the NLRB—a better indicator of the number of unionization campaigns—to determine this misleading conclusion. To that end, CEPR's study is little more than a “crude” calculation based on outdated and shaky assumptions.

Most importantly, **an analysis of government data by the Center for Union Facts found that only 2 percent of unionization campaigns result in an employee being illegally fired.** This analysis was based on raw NLRB data from the agency's CATS database. Among the information recorded is whether the firing is associated with an organizational campaign. This is critical to determining which discharges are associated with organizational campaigns, versus those that are associated with other labor-management disputes, e.g., theft, repeated absence, etc.

Union officials claim coercion stifles pent-up demand for unionization on the part of employees. To that end, the AFL-CIO commissioned a survey from Peter D. Hart Research Associates to suggest that tens of millions of Americans wanted a union but were unable to join one. The AFL-CIO has refused to release the underlying data to the public.

But poll after poll shows a different picture. A March 2007 Opinion Research Corporation poll found that 64 percent of workers say they would prefer their present job to be non-union. An August 2006 Zogby poll found that, given the opportunity to vote to join a union, a plurality of employees (40.4 percent) said they were “definitely against” joining, while another 17.8 percent said they were “probably against” joining. Given that another 7 percent were “not sure,” that left only about one in three employees who would actually lean toward joining—and even then, those who were “definitely for” joining were the smallest group, at only one in eight.

August 29<sup>th</sup>, 2001

Junta Local de Conciliacion y Arbitraje del Estado de Puebla  
Lic. Armando Poxqui Quintero  
7 Norte, Numero 1006 Altos  
Colonia Centro  
Puebla, Mexico C.P. 72000

Dear members of the Junta Local de Conciliacion y Arbitraje of the state of Puebla:

As members of Congress of the United States who are deeply concerned with international labor standards and the role of labor rights in international trade agreements, we are writing to encourage you to use the secret ballot in all union recognition elections.

We understand that the secret ballot is allowed for, but not required, by Mexican labor law. However, we feel that the secret ballot is absolutely necessary in order to ensure that workers are not intimidated into voting for a union they might not otherwise choose.

We respect Mexico as an important neighbor and trading partner, and we feel that the increased use of the secret ballot in union recognition elections will help bring real democracy to the Mexican workplace.

Sincerely, (16 members of Congress)

GEORGE MILLER, MARCY KAPTUR, BERNARD SANDERS,  
WILLIAM J. COYNE, LANE EVANS, BOB FILNER, MARTIN OLAV  
SABO, BARNEY FRANK, JOE BACA, ZOE LOFGREN, DENNIS  
J. KUCINICH, CALVIN M. DOOLEY, FORTNEY PETE STARK,  
BARBARA LEE, JAMES P. MCGOVERN, LLOYD DOGGETT.

## Commonly Misused Statistics

*Myth: 31,000 people were fired for trying to start a union in 2005.*

**Fact: The only hard analysis of National Labor Relations Board data found that only 2 percent of elections involve employees being wrongfully terminated.**

Explanation: The 31,000 number is a favorite of activists and politicians. It is a simple aggregate of all people who received back pay during a given year (from employers and unions alike) for participating in all union activities. While an unknown portion of this may include organizing, it also includes many other more frequent cases of back pay.

*Myth: There have been only 42 cases of union officials harassing employees.*

**Fact: There have been thousands of alleged unfair labor practices committed by union officials since the late 1990's.**

Explanation: This number derives from an HR Policy Association survey, which was by no means comprehensive. Instead, the Center for Union Facts analyzed the NLRB's all-encompassing CATS database and found unions had been charged with 1,417 allegations of coercive statements, 1,325 allegations of threatening statements, 546 allegations of harassment, and 416 allegations of "violence/assaults." While these numbers represent allegations, they clearly rebut the notion that union officials are rarely accused of harassment or intimidation.

## Common Misunderstandings

In addition to misleading statistics generated by union-affiliated organizations, there are a few union "talking points" that confuse the issue.

One of the most common misunderstandings is that, under the card check plan offered by labor-friendly politicians, employees could decertify their representation by the same mechanism. The legislation clearly avoids that possibility.



# Why Is a Union Like a Roach Motel?



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We have the story behind the new union  
scheme to force employees into unions  
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Trapping people isn't.**



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and *The Washington Times*



Union officials continue to promote the idea that, even if a card check bill were signed into law, employees could still have a private vote if they wanted one. This is at best misleading. Simple logic suggests that union officials would have no reason to call for a vote if they are able to achieve the simple majority of signatures in a bargaining unit. It would be tantamount to a politician winning an election and then asking for a recount.

Perhaps the most pernicious misstatement is that signing a union authorization card should be viewed the same as joining a voluntary association. Former Senator John Edwards gave a representative sample of his pro-card check stump speech in Las Vegas, where the *Las Vegas Review-Journal* quoted him in April 2006 saying, “If someone can join the Republican Party by putting their name on a card, then workers in the workplace all across America ought to be able to join the union by doing exactly the same thing.” But political parties do not have the equivalent power of a union official’s ability to tax, represent, or reprimand members. And signing up for a political party doesn’t force anyone else to start paying dues.

## **Card Check Intimidation, Coercion, and Confusion**

The claim of moral superiority is a favorite technique of union organizers when discussing coercion.

American Rights at Work, a union-funded organization, makes this case: “While we polled workers on union and employer coercion, it’s important to note that they aren’t equivalent. Pro-union workers and union organizers attempt to make their case persuasively. But when the person who signs your paycheck calls you into his office and tells you he’s against the union, that’s an entirely different kind of influence.”

The evidence tells a different story. A secret ballot prevents most ills, since no one knows how an employee will vote or voted, irrespective of signing a card. Conversely, a serious flaw in the public card check process is that it is inherently rife with the potential for intimidation by union officials.



CUF's "Kitchen Table" TV commercial

In 1996, an employer presented evidence to the NLRB that “on the day before the election, a bargaining unit employee approached another employee and solicited her to sign a union authorization card. The card solicitor allegedly stated that the employee had better sign a card because if she did not, the Union would come and get her children and it would also slash her car tires.”

The modern record is full of cases of intimidation. Former United Steelworkers organizer Richard Torres wrote in a February 2007 letter to the House Education and Labor Committee that he quit his job when a union official “asked me to threaten migrant workers by telling them they would be reported to federal immigration officials if they refused to sign check-off cards.”

An affidavit given to the NLRB described a New Jersey food service staff member’s ordeal, where a union organizer visited her home and told her “I wouldn’t have a job in Sept. if I didn’t sign the card and that the Union would make sure that I was fired.”

Mike Ivey, a Freightliner employee, gained attention when he fought organizing attempts by the United Auto Workers. According to a March 2007 story, Ivey said, “Some employees have had five or more harassing visits from these (United Auto Worker) organizers ... The only way, it seems, to stop the badgering and pressure is to sign the card.”

Peer pressure is a significant concern among employees who happen to be in the minority opinion, whether they support a union or not. Whereas a secret ballot protects these minorities, paid union staff and peers who support the union can pressure employees if their decision is public. A local of the United Food and Commercial Workers, for example, went so far as to institute a bounty system that offered a three-tier “incentive plan” to pay employees per signature they collected from their colleagues.



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## Organizing Incentive Program

Organizing Incentive Program for facilities which are organizing to have Local 7 represent them (are trying to “go union”) the following Incentive Program is to be implemented immediately (not applicable to Local 7 staff):

- \$5.00 per authorization card obtained during the organizing campaign, paid to the person obtaining the card;
- \$10.00 per authorization card at the successful conclusion of a card check or the successful conclusion of an NLRB election, paid to the person originally obtaining the authorization card;
- \$15.00 per authorization card (signed prior to the successful card check/NLRB election) at the point that a contract is negotiated and approved, paid to the person originally obtaining the authorization card.

## Latest News

[Organizing Incentive Program](#)  
[What You Can Do](#)  
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[Contract Makes Your Life](#)



Coercion is not the only problem inherent in card check campaigns. Equally troubling are stories of union organizers gaining signatures from employees who didn't understand the documents they were signing.

In the famous *Gissel Packing* case in 1969, the Supreme Court stated:

We would be closing our eyes to obvious difficulties, of course, if we did not recognize that there have been [card solicitation] abuses, primarily arising out of misrepresentations by union organizers as to whether the effect of signing a card was to designate the union to represent the employee for collective bargaining purposes or merely to authorize it to seek an election to determine that issue.

A host of recent stories verify this time-tested theory.

In April 2007 the Service Employees International Union in Oregon was forced to reach a settlement with the NLRB in which the union agreed to discontinue card check organizing for six months. Their offense? SEIU Local 49 officials allegedly tricked employees into signing “information flyers” that they later counted as votes favoring unionization. Perhaps not surprisingly, an NLRB regional official noted that the board had earlier reached a similar settlement with the same local.

The Rochester, Minnesota, *Post-Bulletin* published a telling April 2007 letter from a day-care worker being targeted by SEIU. She wrote:

The majority of day-care providers in Minnesota were manipulated into signing cards for the union by being told that if we signed, we would “get more information about the union.” The reality is that by signing, we are giving our support to the union and taking away our voting rights by the societies to which many belong.

*America's Editorial Pages*

# DENOUNCE

## *Union Bosses' Scheme*

"The case for **abolishing secret ballots** is hard to make."

—*The Economist, September*

"Organized labor unfortunately wants to change the law to make it easier for unions to **pressure** workers into designating them as their exclusive bargaining agent."

—*The Kansas City Star, September*

"[T]he so-called 'Employee Free Choice Act' in Congress ... is nothing less than an attempt to **do away with** the secret ballot in such elections ..."

—*Las Vegas Review-Journal, September*

"[U]nion organizers openly solicit and even **coerce** workers to sign cards saying they would like to join a union."

—*Hartford Courant, August*

"Labor is also pressuring employers to sign 'neutrality agreements' (read: **gag orders**) that keep them silent while unions are organizing workers."

—*The Wall Street Journal, September*

"[T]he best way to get an accurate and fair determination of what the workers want is through a secret ballot administered by the National Labor Relations Board."

—*The Miami Herald, April*

*Find out more at:*

**UnionFacts.com**

Full-page advertisement in *The Washington Times*



These societies are our voices in the Legislature. The manipulative behaviors of the union have tricked many of us. The union is trying to use these cards to show our “support” for their agenda in the Legislature. Their agenda is to gain money for themselves, not to better the child-care industry ...

The United Food and Commercial Workers faced similar complaints when it organized healthcare workers in Pennsylvania. After failed attempts to add new members through secret ballot elections, the union was able to obtain a card check organizing drive at a county-run nursing home in Allentown, even though 129 employees sought an election overseen by the government. One employee said some of her coworkers were “intimidated because of the pressure.” She further alleged that she and her colleagues were urged to sign cards showing interest only in an election, but were later told the cards meant they wanted union representation. She concluded, “It was very sneaky and unfair.” Another employee, who said she would have voted for the union in an election, added, “I feel like they snuck in ... Now I don’t trust them.”

## One Union’s Record

UNITE HERE, a union of garment and hospitality employees whose leaders are dedicated to avoiding secret ballot elections, offers telling examples of inappropriate union activity that harms employers and employees.

The *Las Vegas Review-Journal* reported that casino workers filed unfair labor practice charges after they were forced into the union through the card check procedure:

“A lady ... told me that if I did not sign for the union that my wife who works at Caesars Palace will be fired,” one affidavit reads. “That is why I signed.”



CUF's "Kitchen Table" TV commercial

In another sworn statement, an MGM employee said that a union recruiter told people a vote would follow the card signings. A different employee reported being told that if MGM management discovered she was gay, she would be fired, and that the union was her only protection.

“Other employees were threatened with deportation,” [a plaintiff’s attorney] said. “Some were followed. People who wore nonunion buttons had them ripped from their clothes. It was all done with the idea of forcing people to sign the union cards.”

In July 2006, the Placer County Superior Court ordered the union UNITE HERE to pay \$17.3 million in compensatory damages to a group of Northern California doctors and hospitals. Earlier that month, a jury found UNITE HERE guilty of acting with “fraud, malice, and oppression” when it sent misleading and defamatory postcards attempting to scare expectant mothers away from a hospital facility. The hospital was using an outside commercial laundry service, which at the time was in a labor dispute with UNITE HERE. In April 2007, UNITE HERE reached a settlement with a Wisconsin hospital that had alleged “harassment and interference” with patients when the union was seeking to represent a third-party contractor.

In late August of 2006, U.S. District Judge Stewart Dalzell ordered UNITE to pay targeted employees of Cintas Corporation \$2,500 each, plus attorneys’ fees and other costs. Union organizers had made uninvited, unwanted home visits after illegally obtaining employees’ addresses through motor vehicles records.

In April 2007, employees of a Los Angeles hotel issued a statement calling on UNITE HERE’s officials to stop harassing them. According to the *Daily Breeze*, the employees said:

As employees of the LAX Hilton, we are tired of being bullied by UNITE Here. In these last two years we have been the target of a

## How Are Unions Shredding Democracy?



America's employees reject union membership in almost half of all elections.

Find out how labor unions are now collecting mandatory dues by avoiding elections and trashing workplace democracy.

**UnionFacts.com**  
The 3.8 million facts they don't want you to know

Full-page advertisement in *The Wall Street Journal*

campaign not for the betterment of employees or wages or benefits, but simply to increase the union's membership.

## **Everyone (Including Union Leaders) Prefers Real Elections**

The public, the courts, leading editorial pages, and politicians all prefer secret ballot elections. When they're acting as employers, union officials prefer secret ballots, too.

In 2006, a national survey by the Opinion Research Corporation found that 75 percent of Americans chose secret ballot elections as the most democratic method of choosing unionization. By contrast, only 12 percent believed that card check was the most fair and democratic method, and 13 percent answered "don't know." A follow-up in 2007 found that 78 percent preferred secret ballots. A 2007 McLaughlin & Associates poll found 87 percent of Americans believed a federally supervised private ballot should be retained.

The public's response mirrors that of the courts, members of Congress, labor officials, and editorial pages from newspapers across the United States.

In 1991, the District of Columbia Circuit Court of Appeals stated, "Freedom of choice is a matter at the very center of our national labor relations policy, and a secret election is the preferred method of gauging choice." This followed the Second Circuit Court of Appeals decision in 1965 that "[i]t is beyond dispute that a secret election is a more accurate reflection of the employees' true desires than a check of authorization cards collected at the behest of a union organizer."

Even politicians who generally toe the union line have stated a preference for elections. In 2001, Reps. George Miller, Barney Frank, Bernie Sanders, Dennis Kucinich, and Fortney Stark were joined by other members of Congress in urging Mexican officials to require secret ballots for union recognition. These American politicians wrote:

July 5, 2001

The Honorable Vicente Fox Quesada  
Presidente, República de México  
Residencia Oficial de los Pinos  
Col. San Miguel Chapultepec  
México CP 11850  
Fax: 011-52-5-515-1794

Estimado Presidente Fox:

On behalf of the undersigned Canadian church, labour and non-governmental organizations, we are writing to raise concerns about continuing violations of workers' right to freedom of association at the Kuk Dong factory in Atlixco, Puebla. We would respectfully request your personal intervention to help ensure that the Mexican federal and Puebla state governments respect the workers' right to freedom of association as guaranteed in international agreements that the Mexican government is a signatory to, including the American Declaration of the Rights and Duties of Man, the Universal Declaration of Human Rights, the American Bill of Rights, the Convention 87 of the

International Labour Organization, the International Convention on Labour Cooperation, the American Declaration of the Rights and Duties of Man, Mexico and the United States of America.

As you may be aware, the board denied 28 independent union representatives by the official union when only a handful of this contract union.

On June 5, the Commission on Labour Cooperation (COTC) Board (CA) "verify" that the SITEKIM. Fifteen sign papers in order to walk past the offices.

The local C

We would also strongly urge that, in accordance with the May 2000 Joint Declaration signed by the Mexican and US secretaries of labour and witnessed by the Canadian minister of labour, the government of Mexico take appropriate steps to ensure that any future union representation election (recuento) involving Kuk Dong workers be held by secret ballot vote in a secure, neutral location.

We understand that nothing in Mexican law prevents secret ballot votes in union representation elections. The May 1 declaration by the president of the Mexico City labour board that all future recuentos under its jurisdiction will be by secret ballot vote is a welcome precedent, and an example for other jurisdictions. There is therefore no need to wait for the adoption of new labour legislation before acting on the Mexican government's commitment to promote the use of secret ballot votes in future recuentos....

2001 Letter from Canadian Labor Union Officials



... we are writing to encourage you to use the secret ballot in all union recognition elections. We understand that the secret ballot is allowed for, but not required, by Mexican labor law. However, we feel that the secret ballot is absolutely necessary in order to ensure that workers are not intimidated into voting for a union they might not otherwise choose ...

A similar letter from Canadian union officials, including current card-check advocate and Canadian Auto Workers president Basil “Buzz” Hargrove, told Mexican President Vicente Fox that a “declaration by the president of the Mexico City labour board that all future [representation elections] under its jurisdiction will be by secret ballot vote is a welcome precedent, and an example for other jurisdictions.”

Yet some in Congress continue to advocate the democratic principle of the secret ballot only when it suits them. Like all of his colleagues in the House leadership, for example, Mr. Miller was elected to the chairmanship of the House Committee on Education and Labor in the 110th Congress via secret ballot.

Rep. Linda Sanchez of California advocated passage of the Employee Free Choice Act at the first House subcommittee hearing on the bill in February 2007. Yet she urged a secret ballot to determine the leadership of the Congressional Hispanic Caucus leadership. “Following the failure of motions to approve CHC officers for the 110th Congress by acclamation, votes by secret ballot were in order but never taken,” Rep. Sanchez complained in a signed letter. She added, “While this request is not likely to change the results, and while it may seem like a formality, it is important that the integrity of the CHC be unquestioned and above reproach.”

In 2006, janitors employed by a contractor with the University of Miami undertook a hunger strike supported by Service Employees International Union (SEIU) officials, who demanded the ability to gain members without a secret

**Congress of the United States**  
Washington, DC 20515

August 29th, 2001

Junta Local de Conciliacion y Arbitraje del Estado de Puebla  
Lic. Armando Pozqui Quintero  
7 Norte, Numero 1006 Altos  
Colonia Centro  
Puebla, Mexico C.P. 72000

Dear members of the Junta Local de Conciliacion y Arbitraje of the state of Puebla:

As members of Congress of the United States who are deeply concerned with international labor standards and the role of labor rights in international trade agreements, we are writing to encourage you to use the secret ballot in all union recognition elections.

We understand that the secret ballot is allowed for, but not required, by Mexican labor law. However, we feel that the secret ballot is absolutely necessary in order to ensure that workers are not intimidated into voting for a union they might not otherwise choose.

We respect Mexico as an important neighbor and trading partner, and we feel that the increased use of the secret ballot in union recognition elections will help bring real democracy to the Mexican workplace.

Sincerely,

George Miller  
Marcy Kaptur  
Bernard Sanders  
William J. Coyne  
Lane Evans  
Bob Filner

Martin Olav Sabo  
Barney Frank  
Joe Baca  
Zoe Lofgren  
Dennis J. Kucinich  
Calvin M. Dooley

Fortney Pete Stark  
Barbara Lee  
James P. McGovern  
Lloyd Doggett

## A question for Congress: Why don't American workers deserve the same rights as those in Mexico?

*For more information on the so-called  
"Employee Free Choice Act," go to [UnionFacts.com](http://UnionFacts.com)*

**UnionFacts.com**  
The 12.5 million facts they don't want you to know

Full-page advertisement in *Roll Call* and *The Hill*

ballot election. The dangerous stunt, condoned and briefly joined by SEIU president Andy Stern, led at least four janitors to leave the strike due to health complications, with one suffering a mild stroke. This caused Clinton administration Cabinet secretary and current university president Donna Shalala to argue in favor of secret ballots. She wrote in *The Miami Herald*: that year.

The SEIU wants a process called a “card check” that does not guarantee participation by all Unicco employees, and Unicco wants an election for all employees—supervised by the federal government via the National Labor Relations Board.

The SEIU and its supporters are pressuring the university to require Unicco to accept the method that does not guarantee participation by all employees—part of a national campaign by the union. We have said No. The University of Miami—no university, for that matter—could ever argue against an uncoerced election for all workers. Many Unicco employees came to this country seeking freedom and democracy. To deny them the opportunity to exercise the fundamental right of an election would be unconscionable ...

We are devastated that the union is risking the health and well-being of our students and the Unicco employees by sanctioning an activity as drastic as a hunger strike. Hunger strikes have never been used in this country to oppose an election.

The case led the *Herald* to editorialize that “the best way to get an accurate and fair determination of what the workers want is through a secret ballot administered by the National Labor Relations Board.” The newspaper added that “the best chance for fairness consists of taking an accurate count by secret ballot, a staple of our democratic system.”

Editorials in the *Hartford Courant* echoed these concerns in 2006, when a campaign for card check was led by SEIU and UNITE HERE against a Hartford employer. In May, the paper reported that

# Publications Editorializing **Against** Card Check:

**The Washington Post**

**The Economist**

**San Francisco Examiner**

**The Washington Times**

**The Miami Herald**

**New Hampshire  
Union-Leader**

**WALL STREET JOURNAL**

**THE KANSAS CITY STAR**

**Hartford : Courant**

**St Petersburg Times**

**The Birmingham News**

**Chicago Tribune**

**Orlando  
Sentinel**

... the labor peace agreement would obligate hotel owner Len Wolman of the Waterford Group to permit union organizing under an unfair process in which the union solicits workers' signatures on cards saying that they would like to join a union. Mr. Wolman would not get to tell the workers his side of the story. If more than half the workers sign the cards, he must immediately negotiate a contract with the union.

Not only is the employer cut out of the process, the request to unionize doesn't even originate with the workers, whose paychecks would be raided for union dues.

By April 2007, more than a dozen major newspapers had editorialized against card check. This included *The Washington Post*, which argued that “employees who are skeptical of or opposed to bringing a union into the workplace deserve the protections of a secret-ballot election rather than having to face pressures from colleagues pushing them to sign unionization cards.” *The Economist* magazine's editors noted that “[p]ro-union employees can use peer pressure to coerce reluctant workers; foot-draggers can be threatened with reprisals if the union is certified.”

## Union Officials Elect for Hypocrisy

Given this level of public and media support for elections, some may be surprised by union officials' campaign to take away secret ballots from working Americans. They may be more surprised to find that union officials seem to prefer elections when it comes to their own staff deciding whether to join a union.

An analysis by the Center for Union Facts found more than three dozen cases of NLRB petitions filed by one union seeking to represent the staff of another. That means an employer—the union—chose not to accept cards



# Form Requiring Employees to Go to an Election as the Union-preferred Method for Its Employees

INSTRUCTIONS: Submit an original and 4 copies of this Petition to the NLRB regional office in which the petition is filed. If more space is required for any one item, attach additional sheets, numbering them accordingly.

The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

RC, RM, or RD is checked and a charge under Section 8(b)(7) of the Act has been filed involving the

**RC-CERTIFICATION OF REPRESENTATION** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner, and Petitioner desires to be certified as the representative of the employees.

2. Name of Employer  
U.F.C.W. Trust Fund

☐ RD-DECERTIFICATION (REMOVAL OF CERTIFICATION) - A bargaining representative is no longer their representative.

☐ UD-WITHDRAWAL OF UNION SHOP AUTHORITY (REMOVAL OF OBLIGATION TO PAY DUES) - Thirty percent (30%) or more of employees in a bargaining unit covered by an agreement between their employer and a labor organization desire that such authority be rescinded.

☐ UCA-UNIT CLARIFICATION - A labor organization is currently recognized by Employer, but Petitioner seeks clarification of placement of certain employees. (Check one) ☐ Is unit not previously certified. ☐ In unit previously certified in Case No. \_\_\_\_\_

☐ AC-AMENDMENT OF CERTIFICATION - Petitioner seeks amendment of certification issued in Case No. \_\_\_\_\_

Attach statement describing the specific amendment sought.

Employer Representative to contact: \_\_\_\_\_ Telephone Number: (714) 220-2297

Telecopier Number (Fax): (714) 821-7015

Address (Street and number, city, State, ZIP code): \_\_\_\_\_

City, State, ZIP code: \_\_\_\_\_

4b. Identify principal product or service: \_\_\_\_\_

5. Unit involved (in RC petition, describe present bargaining unit and attached description of proposed clarification): \_\_\_\_\_

Included See Attachment

Excluded See Attachment

(If you have checked box RC in 1 above, check and complete EITHER item 7a or 7b, whichever is applicable.)

7a. ☐ Request for recognition as Bargaining Representative was made on (Date) \_\_\_\_\_ (if no reply received, so state.)

7b. ☐ Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8. Name of Recognized or Certified Bargaining Agent (if none, so state): \_\_\_\_\_ Affiliation: \_\_\_\_\_

Date of Recognition or Certification: \_\_\_\_\_

Address, Telephone No. and Telecopier No. (Fax): \_\_\_\_\_

9. Expiration Date of Current Contract, if any (Month, Day, Year): \_\_\_\_\_

10. If you have checked box UD in 1 above, show here the date of execution of agreement granting union shop (Month, Day, and Year): \_\_\_\_\_

11a. Is there now a strike or picketing at the Employer's establishment(s)? ☐ Yes ☒ No

11b. If so, approximately how many employees are participating? \_\_\_\_\_ a labor

11c. The Employer has been picketed by or on behalf of (Insert Name) \_\_\_\_\_ Since (Month, Day, Year) \_\_\_\_\_

organization, of (Insert Address) \_\_\_\_\_

12. Organizations or individuals other than Petitioner (and other than those named in items 8 and 11c), which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in unit described in item 5 above. (if none, so state.)

Name	Affiliation	Address	Date of Claim	Telecopier No. (Fax)

13. Full name of party filing petition (if labor organization, give full name, including local name and number)  
Miscellaneous Warehousemen, Drivers and Helpers, Local 986

14a. Address (street and number, city, State, ZIP code): \_\_\_\_\_

14c. Telecopier No. (Fax): (626) 448-0986

1198 Durfee Avenue, South El Monte, CA 91733

15. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when petition is filed by a labor organization): \_\_\_\_\_

International Brotherhood of Teamsters

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print): \_\_\_\_\_ Signature: \_\_\_\_\_ Title (if any): ATTORNEY

Debra S. Goldberg Telephone No. (213) 386-3860

Address (street and number, city, State, and ZIP code): 3550 Wilshire Blvd., Suite 2000, Los Angeles, CA 90010 Telecopier No. (Fax) (213) 386-5583



as a sign of their staff employees' intent (and, as noted below, the affirmative rejection of card check is a reasonable conclusion). Such a position is, at best, hypocritical. Leaders of the UFCW seemed particularly fond of requiring elections for union staff who sought representation, followed closely by SEIU and Teamsters leaders. It is notable that these are among the most vocal unions to support ending secret ballots for working Americans.

## Cards Are Not Votes

Union officials know that the cards they use as proof of interest in a union are no such thing. In 1961, the AFL-CIO's "Guidebook for Union Organizers" stated:

NLRB pledge cards are at best a signifying intention at a given moment. Sometimes they are signed to 'get the union off my back' ... Whatever the reason, there is no guarantee of anything in a signed NLRB pledge card except that it will count toward an NLRB election.

Decades later, in February 1989, the AFL-CIO published a survey of unionizing campaign outcomes that was equally clear: "It is not until the union obtains signatures from 75% or more of the unit that the union has more than a 50% likelihood of winning the election."

In a 1998 legal brief to the NLRB, the AFL-CIO criticized cards for decertification of a union because they were allegedly "not comparable to the privacy and independence of the voting booth." Indeed, they stated that the "election system provides the surest means of avoiding decisions which are 'the result of group pressures and not individual decisions.'"

The courts have likewise concluded that card check is an inappropriate means of divining the true intent of employees. In 1967, the Fourth Circuit Court of Appeals concluded: "It would be difficult to imagine a more unreliable

## REQUEST FOR EMPLOYEES REPRESENTATION ELECTION UNDER THE RAILWAY LABOR ACT

I AM AN EMPLOYEE OF \_\_\_\_\_  
(Company)

INSIDE/OUTSIDE \_\_\_\_\_ FULL-TIME \_\_\_\_\_ DAYS OFF \_\_\_\_\_

JOB TITLE \_\_\_\_\_  
(Please be specific) HOURS \_\_\_\_\_

HOME ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

STATION \_\_\_\_\_ EMPLOYEE NUMBER \_\_\_\_\_ DATE OF HIRE \_\_\_\_\_

I authorize the Acting Division of the International Brotherhood of Teamsters to request the National Mediation Board to conduct an investigation and a representation election, **also to represent me in all negotiations of wages, hours and working conditions** the Railway Labor Act. This authorization revokes any prior authority.

Date \_\_\_\_\_ Phone \_\_\_\_\_

Signature \_\_\_\_\_ E-Mail \_\_\_\_\_

Print \_\_\_\_\_

(Print Name Here)

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IN THE  
UNITED STATES



method of ascertaining the real wishes of employees than a ‘card check,’ unless it were an employer’s request for an open show of hands.”

In the case of *NLRB v. Gissel Packing Co.*, the U.S. Supreme Court reiterated the words of a lower court:

The unreliability of the cards is not dependent upon the possible use of misrepresentation and threats ... It is inherent, as we have noted, in the absence of secrecy and in the natural inclination of most people to avoid stands which appear to be nonconformist and antagonistic to friends and fellow employees.

More succinctly, the Court stated that the card check system is “admittedly inferior to the election process.”

In 1983, the Seventh Circuit concluded: “Workers sometimes sign union authorization cards not because they intend to vote for the union in the election but to avoid offending the person who asks them to sign, often a fellow worker, or simply to get the person off their back, since signing commits the worker to nothing (except that if enough workers sign, the employer may decide to recognize the union without an election).”

A nurse’s letter to the Rochester, Minnesota, *Post-Bulletin* provided an appropriate example of the ways in which a card is not a vote. After saying, “[i]f the union has the support of day-care providers, we want a fair vote like all Americans deserve, not a card check,” the nurse made the important point: “In the state of Illinois, only 10 percent of providers who signed cards are union members; 90 percent who signed cards are not union members.”

## From the Bench

“Workers sometimes sign union authorization cards not because they intend to vote for the union in the election but to avoid offending the person who asks them to sign, often a fellow worker, or simply to get the person off their back, since signing commits the worker to nothing.”

—Seventh Circuit Court of Appeals



## So-Called “Neutrality”

According to one leading labor expert, card check agreements with employers, and the “neutrality” clauses included in them, are frequently the result of union coercion. In 2004, former National Labor Relations Board member Charles Cohen testified before Congress: “In my experience, neutrality/card check agreements are almost always the product of external leverage by unions, rather than an internal groundswell from unrepresented employees.”

Unions, apparently concluding that their own record is in part leading to the decline in membership, have as a first priority pressuring companies into remaining silent about all the facts relevant to unionization.

Neutrality occurs when a company agrees to not speak to employees about the risks and downsides of union membership. When asked about neutrality agreements versus secret ballot elections in a 2005 Zogby poll, 59 percent of Americans agreed that “employers should be able to provide employees with information about unions and the potential impact of unionizing on their jobs.” Even political supporters of card check agree in telling both sides when it does not conflict with political demands from union officials. Endorsing the unrelated policy known as the “fairness doctrine,” Illinois Senator Dick Durbin said, “I have this old-fashioned idea that when Americans hear both sides of the story, they’re in a better position to decide.”

An oft-cited example of the effects of neutrality agreements or “gag rules” is that of the United Auto Workers that are forced on employers to buy labor peace in existing unionized facilities. Their standard agreement is less about true, across-the-board neutrality than it is about silence, or outright pressure to join unions by employers.

## The Canadian Experience

In August 2005, the Fraser Institute published a study that examined the differing levels of unionization in the United States and in Canada, where union

## UAW Sample "Gag" Agreement

Neutrality means the following ... The Employer will advise its employees that it welcomes the selection of a collective bargaining representative by its employees, and that it has a constructive and positive relationship with the UAW and other labor organizations at other locations ...

The Employer will not provide any support or assistance of any kind to any person or group which is opposed to the selection of the Union as the bargaining representative of employees ...

The Employer will not make any statements or representations as to the potential effects or results of union representation on the Employer, the Facility, the customer(s) of the Employer, the employees or any group of employees, except as provided herein ...

Within 3 business days of a request by the UAW that it do so, the Employer will hold a meeting (or meetings) for all employees in the Bargaining Unit during work-time. At such meeting, the plant manager or another company official of similar rank shall read the Letter and Fact Sheet in full, and shall reiterate that the Employer encourages, and does not oppose, efforts by its employees to join labor unions ...



density is more than twice as high. A key explanation is the divergence in labor laws. Five of 10 Canadian provinces require secret ballots, but the remainder allow for automatic certification after a showing of majority interest is obtained through card check. The evidence is overwhelming: If employers are allowed an opportunity to present information before a private vote, unions were dramatically less likely to persuade employees to join.

One supporting study found that 17 to 24 percent of the difference in unionization rates between the United States and Canada could be explained by the widespread use of secret ballot votes in the United States.

Even as some U.S. politicians and union officials point to the ostensible “success” of Canadian labor laws, however, five provinces have actually implemented secret ballot voting since 1977.

British Columbia, for example, introduced secret ballots in 1984, then dropped the requirement until deciding in 2001 that the process was indeed necessary for workplace democracy. Despite union officials’ normal hysterical claims, politicians, academics, and opinion leaders weighed in on the side of private ballots.

Labour minister Graham Bruce, for one, explained his administration’s view that implementing ballots is “part of the democratic process to allow for people to have a vote.” *The Vancouver Sun* reported University of British Columbia industrial relations professor Tom Knight “said that both unions and businesses pressure workers.” But, Knight told the paper, the “policy toward (secret ballots) is probably the correct one in terms of ensuring individual employees have the right to express their preference. But the vote must be held expeditiously.”

The official word from leading newspapers added their support for the right of workers to a private vote. In August 2001, a *Vancouver Sun* editorial dismissed union claims about employer intimidation and lauded secret ballots:

**Table 2: Year Secret Ballot Voting Was Implemented**

Province	Year
British Columbia	2001
Alberta	1988
Ontario	1996
Nova Scotia	1977
Newfoundland	1994

Godin, Keith, Milagros Palacios, Jason Clemens, Niels Veldhuis, and Amela Karabegović (2006). An Empirical Comparison of Labour Relations Laws in Canada and the United States. *Studies in Labour Markets*, no. 2 (May). Vancouver: The Fraser Institute.

Digital document available at <http://www.fraserinstitute.ca/admin/books/files/EmpCompLRL.pdf>.

... any reasonable reading of labour law and practice suggests that intimidation is too risky a strategy for businesses to adopt.

By opting for secret ballots, B.C. will democratize workplaces and join four other provinces with a similar requirement for union certification.

The *Prince George Citizen* added in an editorial:

We also don't see a problem with the secret ballot on certification and de-certification. To us, that system would go a long way toward eliminating any coercion on such an important vote from both the management and union sides. Let the workers decide, without show-of-hands, peer pressure. That only seems fair.

## What Others are Saying about the Center for Union Facts

### PRWEEK

“The most visible development in the [labor] field this year has been the establishment of the Center for Union Facts (CUF).”

### THE WALL STREET JOURNAL.

“As organized labor fights an uphill battle...it has something new to worry about: The Center for Union Facts.”

### The New York Times

“Business-backed group is mounting a highly visible attack against organized labor.”

### INVESTOR'S BUSINESS DAILY

“The Center for Union Facts, a business-backed group leading the fight against card check.”

### Pittsburgh Post-Gazette

“We haven’t seen anything like this, anything that’s as high profile, as seemingly well-funded, as systematic, in a long time. In a sense, it’s kind of unprecedented.” (Professor Paul F. Clark, Penn State University)

## What Others are Saying about the Center for Union Facts

### Los Angeles Times (Also ran in Bloomberg News)

“Attacking the organized-labor movement as corrupt and outdated.”

### AFL-CIO America's Union Movement

“Outrageous.”



### THE SUNDAY TIMES (UK)

“The unions have offered no real response.”

### Forbes

“Unionfacts.com has been having fun mining and compiling financial statements filed by unions.”

### BusinessWeek

“Why shouldn’t Big Business have its own Michael Moore?”

### PITTSBURGH TRIBUNE-REVIEW

“Folks, it’s ugly. The Website—UnionFacts.com—categorizes the information nicely. The Leftist agenda, the racketeering, the fines, the convictions, the magnificent, unearned salaries for union bosses.”



PO Box 34507  
Washington, DC 20043  
Tel: 202.463.7106  
Fax: 202.463.7107

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