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# Obama's War on Labor

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Voters expecting change keep getting rude reminders of what kind, none they can believe in reiterated again on March 30 in Obama's remarks to the auto giants. While stating "We cannot….must not (and) will not let (this) industry vanish," he laid down a clear marker. Labor, not business, is targeted. More on that below.

"We (won't) excuse poor decisions," he said. "We cannot make the survival of our auto industry dependent on an unending flow of taxpayer dollars." In rejecting their aid request, he added: "These companies – and this industry – must ultimately stand on their own, not as wards of the state….What we are asking is difficult. It will require hard choices by the companies. (Their plan doesn't go) far enough to warrant the substantial new investments these companies are requesting."

Imagine the hypocrisy – open-checkbook trillions for Wall Street criminals v. a thinly disguised war on organized labor by scolding the auto giants for not forcing their workers to make greater sacrifices.

They're needed, said Obama. Their "best chance for success" is a "surgical" bankruptcy lasting for as little as 30 days – meaning workers will lose everything while CEOs get seven-figure compensation for betraying them.

A March 31 New York Times Michael de la Merced/Johathan Glater article suggested that Washington may seek a "controlled" bankruptcy – somewhere between "prepackaged (and) court chaos by persuading creditors to agree" to divide GM in two pieces, sort of like a good and bad bank to create a healthier company, free of its troubled assets and liabilities.

Under the plan, GM would declare a prearranged bankruptcy. Then, the bankruptcy code's Section 363 would authorize selling off desirable assets to a new government-financed company. Details are being discussed so it looks like a done deal, either prepackaged or through a bankruptcy court, either way very worker-adverse with UAW bosses pressured to go along, take it or leave it.

The administration also decided Chrysler can't survive alone. It was given 30 days to ally with Fiat SpA or with another automaker if that fails, even though such a deal may combine two dogs into a bigger one with even greater problems than going it on their own.

Obama drew a line in the sand for "workers who have already made painful concessions to make even more" through additional restructuring sacrifices, including:

— permanent job losses;

— lower wages;

— gutted work rules, including health and safety protection on the job;

— forfeited security through lost benefits and pensions, including for retirees, on top of everything given up in fall 2007 negotiations when the UAW leadership surrendered to management, then muscled the rank and file to go along; and

— more sacrifices the Bush $25 billion bailout demanded, unreported in the mainstream: banned GM and Chrysler strikes, meaning effectively on the big three; more wage and benefits cuts; ending the UAW's "jobs bank" that provided help to furloughed workers and more.

It's a dark age for US auto workers and a prelude for what's coming – compared to earlier times when they earned substantial wages, got cost of living and productivity increases, and had impressive benefits, including medical coverage with defined extras, employer-funded pensions, improved safety and health benefits, paid vacations, and supplemental unemployment insurance guaranteeing up to 95% of pay if laid off.

Replacing them was a two-tiered wage and benefit package with new skilled hires getting little more half the previous arrangement and for a new non-core category even less.

Much more was lost as well:

— plant closures resulting in permanent job losses; for GM alone it meant 85% fewer production jobs than in 1990 over a period when high-paying manufacturing ones disappeared, offshored, or were replaced by machines;

— for new hires, an ill-conceived 401k arrangement replacing employer-paid pensions with one dollar invested in company stock for each hour worked that turned out to be worthless two years later as the companies head for bankruptcy;

— major health care concessions under a union-run VEBA (voluntary employee beneficiary association) putting UAW bosses in the healthcare business for potential big profits at the expense reduced worker benefits and companies relieved of their obligations after putting up an initially-funded amount;

— employee buyouts, early retirements and other downsizing efforts to replace high-wage workers with cheaper new ones; and

— Chrysler workers getting even less overall than their GM and Ford counterparts.

A final coup de grace is planned with disturbing implications for all workers – after decades of hard won gains. The UAW alone lost almost one million jobs from 1979 through 2007 (from 1.5 million to about 512,000). At yearend 2008, membership stood at 431,000, and tens of thousands more may now go given industry conditions and administration demands. In addition, more major concessions are coming through the back door – by a prepackaged bankruptcy or court-appointed judge to relieve Obama of responsibility.

If GM and/or Chrysler go down either way, prearrangers or the court will do the honors. The current union contract will be replaced by new demands, meaning 60 years of gains will be lost with the stroke of a pen, and no negotiations can mitigate them. It gets worse.

Whatever's decided will be a model for all industry. The idea isn't to end unions, just

neutralize them, then leave workers out in the cold with poor wages, few if any benefits, self-funded only retirement plans if any, and other management-demanded concessions in a new dark age for labor heading it back to its earliest days when all gains gotten were hard won and few achieved until the mid-1930s under the Wagner Act.

Labor always struggled and learned the hard way that winning meant organizing, pressing their demands, taking to the streets, going on strike, holding boycotts, battling police and National Guard forces supporting management, and paying with their blood and lives to get results.

They were impressive – an eight-hour day, a living wage, generous increases, good benefits, and pensions because strong unions went head-to-head with management and won. It's world's different today with government in bed with business, Democrats as bad as Republicans, weak unions under corrupted bosses, millions of high-paying jobs already lost, and a global economic crisis stripping workers of all bargaining power and heading them for sweatshop serfdom under a leader even more anti-labor than his predecessor.

He appointed an auto task force (headed by Tim Geithner and Larry Summers) to be judge, jury and executioner, then let them (quietly) or a bankruptcy judge pull the switch to absolve him of responsibility, be able to declare victory, and apply the same terms across industry as every sector struggles to survive, the result of a Washington/Wall Street-created crisis.

Their scheme is to:

— crush world economies;

— recapitalize the IMF to entrap developing ones in perpetual debt bondage, neo-feudalism, a virtual dystopia;

— structurally adjust their populations to a living hell – impoverishment through "shock therapy" loss of employment, essential benefits, and democratic freedoms;

— tank financial markets;

— destroy competitors;

— use trillions of taxpayer dollars to consolidate the FIRE sector (finance, insurance and real estate);

— buy other assets on the cheap;

— toxic ones from each other, mostly with public money paying the cost and assuming the risk;

— declare war on labor; and

— force companies to downsize, then strip workers of their rights and futures.

Social Security, Medicare, and Medicaid are next to supply more funds for Wall Street, selected corporate favorites, and generous amounts for military adventurism, global imperialism, and a homeland police state apparatus to quell restive opposition when it

erupts. Obama's promised change is betrayal of the constituency that elected him. Looking ahead, things appear very grim.

Promised Hope from the Employee Free Choice Act (EFCA)

EFCA legislation was first introduced on November 21, 2003 in the 108th Congress as S. 1925 (with 37 co-sponsors) to: "amend the 1935 National Labor Relations (Wagner) Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes." It was referred to the Health, Education, Labor, and Pensions Committee but never passed.

It was reintroduced on April 19, 2005 in the 109th Congress as HR 1696 (with 215 co-sponsors) for the same purpose. It got as far as the Employer-Employee Relations Subcommittee but not passed.

It was again introduced on March 1, 2007 in the 110th Congress as HR 800 for the same purpose. It easily passed in the House (241 – 185), then was blocked in the Senate when supporters couldn't get the required 60 votes to end debate and bring it to a vote.

On March 10, the 111th Congress revived it for the fourth time as S. 560 (with 39 co-sponsors), again for the same purpose. It's been read twice and referred to the Health, Education, Labor and Pensions Committee where it's pending.

Facts about EFCA

Change to Win aims "to unite the 50 million workers whose jobs cannot be outsourced and who are vital to the global economy. (It represents) seven unions and six million workers united….to build a new movement of working people to meet the challenges of the global economy and restore the American Dream (for) a paycheck that supports a family, universal health care, a secure retirement, and the freedom to form a union to give workers a voice on the job." It strongly backs EFCA and states:

"EFCA respects that the right to join a union is a fundamental freedom, just like freedom of speech or religion, and that employees should be able to do so without interference from management (or government)."

If enacted, it will change federal law for the better at a time worker rights are in tatters. Overall, it would be a boon for organizing with a free and fair "card check" system under which workers merely sign them in support of a union. They may do it openly or in secret, their choice free of company coercion or intimidation. If a majority do, companies must recognize it. Unlike current rules, they presumably can't veto the decision, coerce or bribe employees to vote "no," or fire those who do.

Current law requires good faith bargaining. But it's eroded to near worthlessness and become a mere shadow of the landmark Wagner Act. It guaranteed workers the right:

"to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection." In other words, it leveled the playing field to let workers bargain on equal terms with management, but never easily.

From the start, its provisions were attacked, then severely restricted under the 1947 Taft-Hartley Act. In the "national interest," it lets presidents stop strikes by court-ordered injunctions for 80 days, and it's been done numerous times, 10 alone by Harry Truman who opposed the law but used it against organized labor.

It also allows stiff penalties for union violations but minimal ones for companies. It enacted a list of "unfair (union) practices prohibiting jurisdictional strikes (relating to worker job assignments), secondary boycotts (against firms doing business with others struck), wildcat strikes, sit-downs, slow-downs, mass-picketing against scabs, closed shops (in which employees must join unions), and more while legalizing employer anti-organizing interventions.

It eroded worker power that continues to this day. It's so weak that employers can (illegally) fire union sympathizers with only minor fines if proved. They can fire workers for any reason or none at all, and, of course, offshore high-paid jobs, freely move to low-wage "right-to-work" law states that restrict organizing under Taft-Hartley, and use those threats to extract more concessions from unions, easily intimidated or coerced to go along.

The result is that union membership declined steadily from the 1950s, and since the 1970s, worker wages and benefits have eroded under rigged market-based rules against them.

EFCA aims to restore labor rights affirmed by the Supreme Court in decisions like Virginian Railway Co. v. Railway Employees (March 29, 1937) when it ruled that "employees (have) the right to organize and bargain collectively through a representative of their own selection, doing away with company interference and 'company union.' "

It reaffirmed the right in National Labor Relations Board v. Jones & Laughlin Steel Corporation (April 12, 1937) by ruling: "the corporation (engaged in unfair labor practices by) discriminating against members of the union with regard to hire and tenure of employment, and was coercing and intimidating its employees in order to interfere with their self-organization."

It added that:

"Employees have as clear a right to organize and select their representatives for lawful purposes as the respondent has to organize its business and select its own officers and agents. Discrimination and coercion to prevent the free exercise of employees to self-organization and representation is a proper subject for condemnation by competent legislative authority. Long ago we stated (that) labor organizations were organized (of necessity); that a single employee was helpless in dealing with an employer; that union (representation) was essential (to resist unfair treatment and) give laborers opportunity to deal on an equality with their employer."

We've come a long way from a friendly High Court. The current Roberts one is "supremely" pro-business. It's why passing EFCA is essential even given enough congressional votes to kill it and an anti-labor president who won't mind.

Today, over 90% of employers oppose unions with government on their side. Nearly 50% threaten to close plants or other work sites. Many coerce, threaten and/or bribe workers to be union-free, and around 30% illegally fire pro-union employees and get away with it.

Current election law mandates secret ballots one month after organizers collect enough

signatures, but in the interim, companies can discourage, threaten and/or coerce employees to vote “no.” They can also deny union recognition even if 100% of them want it.

EFCA turns the tables by enforcing fair collective bargaining under the following procedure. Federal Mediation and Conciliation Service (FMCS) arbitrators get to write first contracts (for a two-year period) covering wages, benefits, and work rules. NLRB union certification will be based on “card check” majority votes. Employers must then make “every reasonable effort to conclude and sign a collective bargaining agreement” within 10 days of the union’s request. If none is reached in 90 days, either party may ask FMCS to intervene. If resolution fails after 30 days, an arbitration board “renders a decision settling the dispute” – binding for two years, unless both sides agree in writing to amend the contract.

The NLRB will be empowered to take legal action to immediately reinstate workers fired for union activity and enforce triple damages on companies.

EFCA levels the playing field by letting workers vote up or down on whether to form a union – freely by majority vote without fear of employer retribution. Overall, it’s the first pro-labor law since Wagner, if only a first step at a time their rights are greatly eroded. It’s high time Congress reinstated them, but don’t bet on it or that Obama will exert pressure to do it. Business fiercely opposes it with good reason. They’ve got it all their own way and resist change. EFCA will force it for the better at a crucial time for workers.

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