

EVERGREEN AND THE UNIONS

BY JOHN H. FUND

It took three weeks after the 2000 election to figure out who would control the U.S. Senate, because the photo-finish race in Washington state had to go through a full recount. When Democrat Maria Cantwell finally defeated GOP incumbent Slade Gorton by 1,700 votes it became clear the Senate would be tied. That tie enabled Democratic leader Tom Daschle to later cajole renegade Republican Jim Jeffords to leave the

is routine. In late August, Washington state's Public Disclosure Commission found the state Democratic Party guilty of "gross negligence" after it failed to disclose more than \$7 million in campaign donations during the 2000 election. A similar case has also been brought against the state Republican Party. If laws on disclosure are to work, enforcement and accountability must be strict and evenhanded.

Sadly, that is seldom the case, and especially in cases involving union-

dues money spent on politics. But thanks to complaints by the Evergreen Freedom Foundation, an Olympia-based free-market think tank, courts have fined the Washington Education Association—the state affiliate of the National Education Association—hundreds of thousands of dollars for violating state campaign laws.

One of the most significant of those laws is the "paycheck protection" measure approved by voters in a 3 to 1 landslide in 1992. It required unions to seek prior permission from their members before spending their dues on politics. The result was instantaneous in the state teachers' union, with 87 percent of members bailing out from their contribution obligations within a year. A

decade later, the percentage of non-payers has risen to 91 percent.

The union, clearly worried that this exodus would hobble its political agenda, formed two new union political programs specifically to replace the lost PAC money. WEA officials created a new mandatory payment for teachers to pay for "political education" activities. This so-called "Community Outreach Program" generated over \$900,000 a

year, most of which was spent to defeat two school-choice initiatives on the 1996 ballot.

The WEA also laundered some \$410,000 from the National Education Association to pay for a massive political operation in the 1996 election that involved a dozen team leaders, 22 full-time regional directors and more than 300 local union reps who could be detailed from teaching into campaigning.

When these schemes came to light, the WEA at first got off with a wrist-slap. Democratic Attorney General Christine Gregoire announced a settlement with WEA that ended all legal action against it in exchange for a \$100,000 rebate of union dues that represented a dues reduction of \$5 per member for one year. Later, documents obtained by the Evergreen Freedom Foundation, through Freedom of Information Act lawsuits, showed that the attorney general's office had more or less allowed the WEA's own attorneys to draft the settlement.

This milquetoast treatment encouraged the union to continue its brazen activities. In August 2000, Evergreen filed a complaint against the teachers' union alleging it was improperly spending "agency fees" from 4,000 teachers who had quit the union but still were required to pay fees for collective bargaining services the union provided. The liberal *Seattle Post-Intelligencer* editorial page accused the union of "playing fast and loose with money it has no authority to spend for political purposes."

In September 2000, the state's Public Disclosure Commission ruled that the WEA had violated the law and asked the attorney general to take action. This time a lawsuit was filed, and in August 2001 Superior Court Judge Gary Tabor found the WEA guilty and fined it \$400,000 because he found the violation was intentional. He also ordered the union to return \$143,000 in union dues to the 4,000 "agency fee" teach-



"Here, Puss Puss"

and turn Senate control over to the Democrats.

The loss of Gorton's seat had significant ramifications for the country at large, which makes the growing scandal involving the improper use of union dues in Washington state immediately relevant. It is ironic that the Senate race that made the current Democratic Senate majority possible—as well as passage of the McCain-Feingold campaign finance bill—took place in a state where scofflaw behavior by political parties

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ers and also pay \$190,000 in legal fees to the attorney general's office.

But Evergreen wasn't finished with documenting the union's rogue behavior in the 2000 election. It turned its sights on the many interlocking relationships the Washington state affiliate had with the National Education Association. It hit pay dirt again. In April of this year, the state PDC found the NEA guilty of illegally using \$500,000 in agency fee payments in the 2000 election in Washington state. But at the same time, the PDC staff recommended that the attorney general's office either settle the case with the NEA out of court or drop the matter, "based on the current budget cutbacks and the cost of such litigation." A complaint at the same time involving improper reporting of campaign funds by conservative activist Tim Eyman was handled with no such request for leniency. That prompted the *Seattle Post-Intelligencer* to question the double standard and ask "why the state simply can't afford to pursue justice in the NEA case."

But Superior Court Judge David Berschauer chose not to look the other way when the case appeared before him. In early July, he found that the NEA had violated state law and ordered the teachers' union to stop collecting fees from all of its nonmembers in the state. Because of the union's failure to respond in a timely fashion to the lawsuit, he ordered it to pay \$800,000 in civil fines to the state, \$3,103 in investigation costs to the PDC and \$10,500 in attorney fees to the Evergreen Freedom Foundation. Two weeks later, he granted the union a partial reprieve by setting aside the civil fines until the case goes to trial this fall.

The WEA has responded with vitriolic attacks against Evergreen and its president, former GOP state legislator Bob Williams. The stakes for the union are enormous since it collects \$683 annually from the average Washington teacher, an amount that is roughly similar in other states. That helps explain why last April it launched radio ads attacking Evergreen and Bob Williams in unusually personal terms. "What's a failed politician to do?" asked a mocking voice. "Here's what Bobby did—he started a 'think tank'—the Evergreen Freedom Foundation. . . . So who's giving Bobby the millions to think the 'big' thoughts? For Bobby Williams, answering that question is unthinkable." The radio ads were backed up by full-page ads in all of the state's major papers that depicted Mr. Williams in a dunce cap and described Evergreen as "extremists with dumb, dangerous ideas."

The NEA's top lawyer, Robert Chanin, has

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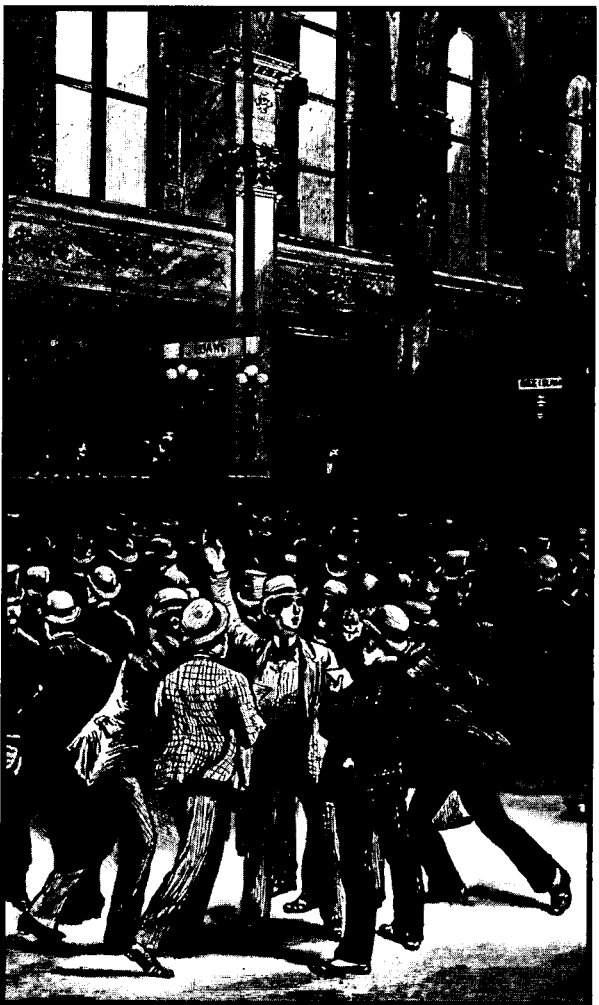
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MEMORANDUM TO THE PRESIDENT

FROM: George Gilder and Bret Swanson
RE: Leading on the Economy ...
Purging Darman's Ghost

Let's get one thing straight right off the bat. The stock market is the economy.

The \$100-trillion balance sheet of the United States dominates all other economic data. A \$7-trillion loss in asset values—something we've seen in the past two years—dwarfs \$30-billion "real" income increases, \$20-billion up-ticks in consumer spending, \$10-billion surges in fixed investment. Multi-trillion-dollar changes in stock market values overwhelm even



expressed private regret at the antics of the NEA's state affiliate, but he still staunchly maintains the union has done nothing wrong. "So you tell me how I can possibly separate NEA's collective bargaining from politics—you just can't—it's all politics," he said in the newsletter *Labor Watch*.

That's precisely the problem and why paycheck protection laws need to be passed in the 47 states that lack them. Absent that, it's important that better disclosure of union political activities be made. The 1959 report-

also uses member dues to pay for 1,800 UniServe directors, who it charges with "managing all political activities" in their local areas.

But little of this activity is to be found on the NEA's LM-2 forms. The union spent some \$40 million on UniServ programs in 1996, but the LM-2 form has no category to list it, making the filings the NEA does make virtually meaningless. Disclosure abuses could also go well beyond politics. Cam Findlay, the deputy secretary at the Department of Labor, plans

Just as business deserves greater scrutiny in the wake of the Enron, Global Crossing and WorldCom scandals, so, too, do unions.

ing requirements enshrined in the Landrum-Griffin Act have to be updated to take into account the consolidation of many unions into larger, more complex organizations. The LM-2 forms that unions are required to file are supposed to allow members to see where their dues money is going. But many unions don't even bother to fill them out, or send them in months late. In 2000, the Labor Department reports over 34 percent were either late or never filed at all. For those that are filed, compliance audits have fallen from 1,583 a year in 1984 to only 238 in 2001. Ten of the biggest unions have never been audited—it was never a priority for the Clinton administration.

Recent revelations regarding the lack of disclosure by unions on their LM-2 forms have prompted the Bush administration to seek more funding and staff to better monitor compliance with disclosure requirements. It also plans to modernize and expand the reporting requirements on the LM-2 forms. For example, the Landmark Legal Foundation has found that during the 2000 Gore campaign, the NEA budgeted \$386,000 in member dues for "organization partnerships with political parties, campaign committees and political organizations." The NEA

to update the forms because "the existing forms utilize such broad general categories that union leaders could easily use them to hide overspending, financial mismanagement and other irregularities from their members."

Just as business deserves greater scrutiny in the wake of the Enron, Global Crossing and WorldCom scandals, so, too, do unions. Given their widespread influence on the 2000 elections, we can expect them to be even more active in the closely fought Senate elections this fall.

Unions have a right to participate vigorously in the democratic process, but Supreme Court decisions honoring the right of members to withhold their dues money from political uses must be honored. As Bob Williams testified before Congress, "There would be nothing wrong with the political machinery of the unions except for one thing. It is paid for from automatic and sizable annual deductions from teachers' paychecks." And as we've seen in Washington state, when teachers are given a choice, they vote to remove their dollars from union political activity in droves. Small wonder the unions are so adamant in making sure the pointed questions posed by the Evergreen and Landmark Legal Foundations are never properly answered.