



**THE BATTLE TO REFORM U.S. LABOR LAW:
MAKING THE CASE FOR THE
EMPLOYEE FREE CHOICE ACT**

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U.S. Labor-Management Relations

Pre-1930s

--ER & Gov't
opposition to unions

--no EE rights re unions or CB



U.S. Labor-Management Relations

1935 National Labor Relations Act (N.L.R.A.)



U.S. Labor-Management Relations

N.L.R.A.

Ees granted right to:

- 1. Organize unions*
- 2. Bargain collectively*
- 3. Engage in concerted action*



U.S. Labor-Management Relations

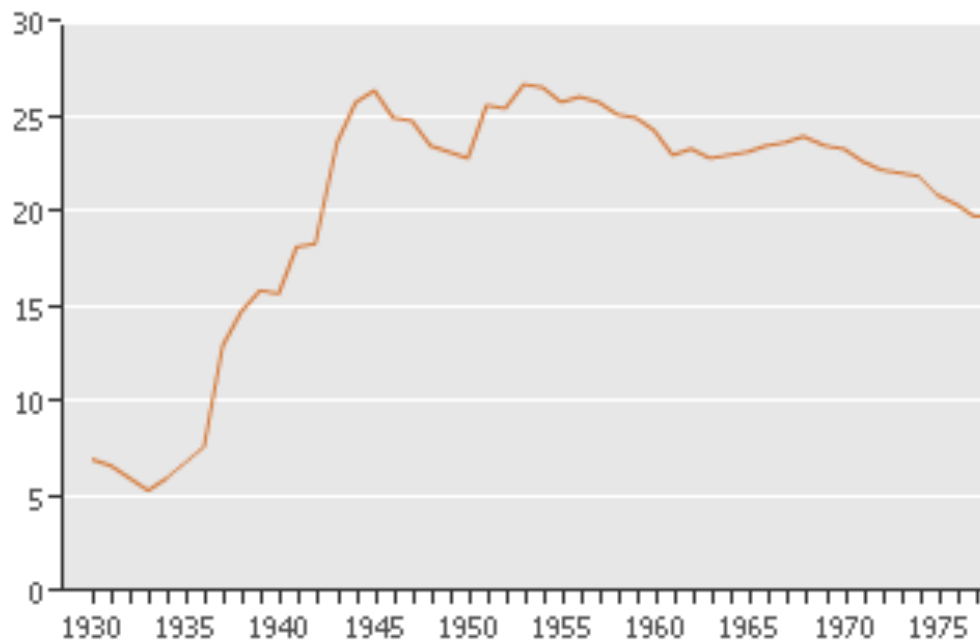
1947

Taft-Hartley Amendments to N.L.R.A.



Union Density U.S.

Share of Labor Force



■ Employed & unemployed labor force in unions

Notes: Data unavailable for 1981 and 1982. Data prior to 1981 collected by national labor unions. Data after 1982 collected by the U.S. Census Bureau.

Source: U.S. Department of Labor, Bureau of Labor Statistics, 2008.

Peaks in
mid-50s at
27-28%



U.S. Labor-Management Relations

circa 1980

--Reagan & P.A.T.C.O. Strike

--Downward pressure on wages

--Shift from industrial to service economy

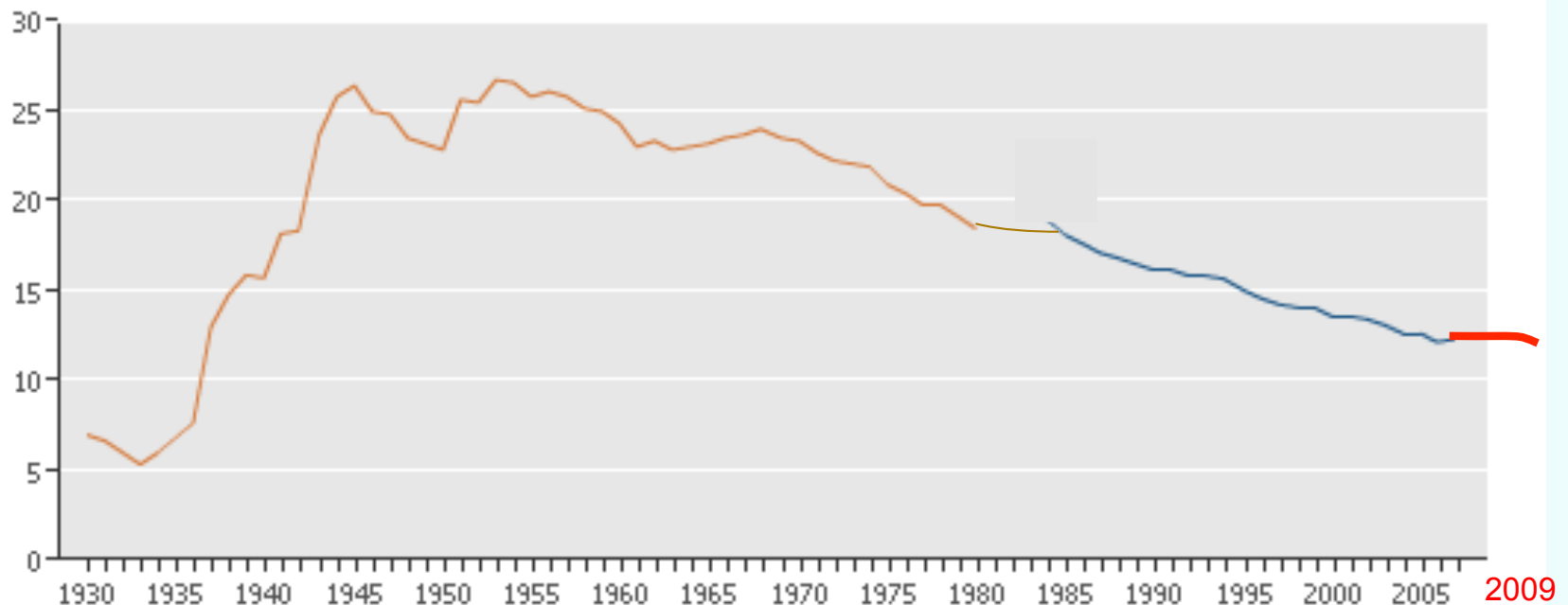
--Ineffective Union Response

****--Mgmt. consultants exploitation of N.L.R.A.*



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Union Density 2009

Overall 12.3%

Private 7.2%

Public 37.4%



Employer Union Opposition Strategies

- **78% force workers to attend one-on-one anti-union meetings with supervisors**
- **92% force employees to attend mandatory anti-union meetings**
- **25% illegally fire at least one worker for union activity**
- **33% never agree to a contract**

Source: Bronfenbrenner, 2000



**U.S.
Labor-Management Relations**

2009

**Employee Free Choice
Act (E.F.C.A.)**



Employee Free Choice Act (E.F.C.A.)

- 1. Allow most private sector employees to use majority sign-up/card check OR secret ballot as basis for union recognition.**



Employee Free Choice Act (E.F.C.A.)

2. Strengthen protections for workers engaging in union activity by imposing significant greater penalties for employers violating the law (treble damages, etc).



Employee Free Choice Act (E.F.C.A.)

3. Encourage negotiation of first contract by requiring mediation (after 90 days) and binding arbitration (after 120 days).



Management Opposition to E.F.C.A.

“This is the demise of a civilization...if a retailer has not gotten involved with [E.F.C.A.], if he has not spent money on this election [to defeat E.F.C.A. supporters] ...he should be shot.”

***--Founder and former CEO of Home Depot,
Bernard Marcus***



Management Opposition to E.F.C.A.

EFCA has “...serious implications [to] the ... stability of the economy” The “coming fight in Congress” is a “firestorm bordering on Armageddon.”

U.S. Chamber of Commerce



Politics of E.F.C.A.--2009

- **U.S. House of Representatives**
--Strong majority **FOR**
- **U.S. Senate**
 - 52 Democrats/Indep. **FOR**
 - 8 Democrats **UNDECIDED**
 - 40 Republicans **AGAINST**
- **Closure (60 votes needed)**



Politics of E.F.C.A.--2010

▪ Reports of a Compromise that would secure 60 votes

--Card check dropped; replaced by expedited election

--Penalties strengthened

**--First contract arbitration???
(possibly as penalty/remedy)**



Politics of E.F.C.A.—2010

Election of Republican Scott Brown as Senator from Massachusetts in January 10 made attaining 60 votes for closure on any version of EFCA much more unlikely.





Politics of E.F.C.A.—2010

AFL-CIO remains confident that at least some of the provisions of EFCA will become law this year.

Many observers are skeptical.....