LABOR'S LAST STAND

The corporate campaign to kill the Employee Free Choice Act

By Ken Silverstein

On a Monday morning this past April, a few dozen Arkansans from that state's Chamber of Commerce could be found holing up in a Marriott hotel in Crystal City, Virginia, less than a mile from Washington's Ronald Reagan National Airport. They assembled in the hotel's Jefferson Ballroom, on one wall of which hangs a portrait of the third president standing before a giant Declaration of Independence. Despite the early hour, the visitors were cheerful, sipping from big Starbucks cups as they gathered up political literature and hard candies and waited for their program to begin.

These men and women had come to town as part of a lobbying "fly-in" coordinated with the U.S. Chamber of Commerce. Their mission: to battle the Employee Free Choice Act (EFCA), a bill that would make it easier for workers to organize unions, which now represent only 12 percent of the American labor force (compared with nearly a third in Canada and more than a quarter in the United Kingdom). That morning the group was to be briefed by Glenn Spencer, a deputy chief of staff at the Labor Department during the George W. Bush years who is now coordinating the Chamber of Commerce's campaign against EFCA. Another squad of fly-ins from Arkansas was meeting at the Chamber's downtown Washington headquarters, and the two forces would soon join to fan out across Capitol Hill for meetings with members of the state's congressional delegation.

That night, the Arkansans would reconvene at the hotel for a reception and dinner at the Sky View Lounge, an event to help business leaders "maintain close and productive contact" with the state's two senators and four representatives. Among the sponsors of the dinner were some of Arkansas's most powerful corporations, including Tyson Foods, the steel company Nucor, and, of

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Illustrations by Richard Mia

course, Walmart. The true purpose of all this effort and expense was to persuade the state's two senators—Mark Pryor and Blanche Lincoln, both Democrats—to support a Republican bid to stop EFCA from coming to a vote.

After eight years in the Bush wilderness, the labor movement has achieved some early victories under Barack Obama. He has issued an executive order supporting the use of union labor on government construction projects, for example, and another barring federal contractors from seeking reimbursement for anti-union expenditures; also, he signed the Lilly Ledbetter Fair Pay Act, which extends the deadline for filing pay-discrimination claims. But for business, EFCA is seen as a sort of Armageddon. Currently, when workers wish to unionize, the National Labor Relations Board (NLRB) will oversee an election after 30 percent of the employees in a given workplace sign union authorization cards. Under EFCA, if half of the company's employees sign such cards, no election would be required, a practice that is standard in much of the industrialized world. Another provision of EFCA, and one fiercely opposed by business, calls for binding arbitration after 120 days if a company and a new union are unable to come to terms on a contract.

EFCA's opponents deride the bill as "card check" and say it would strip workers of their "sacred right" to hold a secret-ballot election. "This is the demise of a civilization," Bernie Marcus, the former CEO of The Home Depot, said of EFCA during a business conference call last fall. Sheldon Adelson, the hotel magnate and funder of right-wing causes, calls EFCA "one of the two fundamental threats to society," the other being radical Islam. Randy Zook, head of the Arkansas State Chamber of Commerce, spoke in similarly dire terms when I met him at the Marriott. "For small-business and plant managers to have a chance to survive, they have to be incredibly flexible and incredibly ruthless in terms of efficiency and cost-cutting measures," said Zook, who before joining the Chamber spent three decades with the Atlantic Envelope Company. "It's not just about wages but [union] work rules, which are very rigid. We have companies in Arkansas selling 25 to 30 percent of their total output abroad. We are in a global environment, and to succeed you have to be better, faster, and cheaper than your competitors. The business community is unanimous on EFCA, and I mean so unanimous that it's crazy."

EFCA enjoys overwhelming support in the House, and there has never been any doubt that the bill will pass there. It also commands a majority in the Senate, but supporters need sixty votes for "cloture," that is, to stop a promised filibuster by the bill's G.O.P. opponents. In March, exactly two weeks after the U.S. Chamber sponsored a fly-in from Pennsylvania, Senator Arlen Specter announced that he would oppose cloture on the bill—a potentially fatal blow, because Specter, who himself co-sponsored the bill in 2003 and 2005, was thought to be the Republican most likely to vote for cloture. When he announced in April that he was switching parties, Specter went out of his way to reiterate his opposition to EFCA and cloture.

Two weeks before the Marriott event, Senator Lincoln, always carefully attuned to the desires of Walmart, announced her intention to oppose cloture. This announcement no doubt helped to explain the upbeat mood of the Arkansan delegation, which occupied three rows of folding chairs before a black-draped table at the head of the room. "When you see [Lincoln] later today," Glenn Spencer told the audience, "it's important that you thank her and let her know she did the right thing. We really need to get Senator Pryor to follow her lead. We haven't gotten him quite there yet, but I know you guys will keep working him and we will get him across the goal line. The forest has gotten a little thinner, but we're still not out of the woods. It's still too early to pull out the champagne."

"What about a beer?" retorted Zook, to general amusement.

Spencer said that the strategy now was to win over a few more Democrats "and fully bury this." From the crowd, a voice asked which Democrats might be persuaded to vote with business. Spencer counted out about a dozen on his fingers, including Ben Nelson of Nebraska, Jim Webb of Virginia (who the same day expressed reservations about EFCA), Mary Landrieu of Louisiana, Tom Carper of Delaware ("He's a co-sponsor, but I was on a conference call with him and he said he thought this was a terrible bill"), and Dianne Feinstein of California ("believe it or not").

"I'm not a seasoned lobbyist like some of those in the room, but as I see it we're in a pretty good position not to compromise," said a man in the audience.

"Yeah," replied Spencer. "We are. But the unions have not given up on this bill. At some point they will have to make a strategic decision: do they try to get a compromise bill now and come back for more later, or do they go down fighting on this bill and then see if they can pick up a few seats in the 2010 elections? This shouldn't be a partisan issue, but unfortunately it largely breaks down along the lines of Rs and Ds. We've got to keep fighting to make sure that a bad compromise bill doesn't come to the floor, and keep fighting right through 2010."

Before dispatching the Arkansans to their lobbying mission on the Hill, Zook made a forceful declaration: "It is critical that we take the view that our beef is not with organized labor but with a terrible piece of legislation." This is a central talking point—cooked up by Navigators Global, the chief public-relations firm for the anti-EFCA coalition—but it is not convincing on even a cursory examination of the coalition's leadership and its prehistory.

Indeed, the campaign to defeat EFCA is best seen as the latest onslaught in a business crusade to destroy the labor movement, one that began in the early twentieth century but has been waged with increasing intensity only since the mid-1970s. During 1974 and 1975, with the specter of stagflation looming—and amid the twin political crises of Vietnam and Watergate—top corporate officials held a series of meetings under the auspices of The Conference Board. The climate was dark. Feeling pressured by the unions, as well as by the demands of an ungrateful citizenry, the assembled CEOs feared a popular revolt might be imminent. "We have been hoist with our own petard," one executive said. "We have raised expectations that we can't deliver on." Another executive complained, "One man, one vote has undermined the power of business in all capitalist countries since World War II."

With profits down and debt up, business determined that the rules of the game had to be changed in its favor. "[I]t will be a hard pill for many Americans to swallow—the idea of doing with less so that big business can have more," *Business Week* stated bluntly in 1974. "Nothing that this nation, or any other nation, has done in modern economic history compares in difficulty with the selling job that must now be done to make people accept the new reality."

A key part of the sales job was an ideological attack on unions. In order to target universities, intellectuals, and the media, corporations shoveled cash into conservative think tanks. They also vastly increased their lobbying efforts—as Kim Phillips-Fein recounts in her new book, *Invisible Hands*, most Fortune 500 firms didn't have Washington public-affairs offices in 1970, but 80 percent did by 1980—and poured money into the political system as well. Justin Dart, chairman of California's Dart Industries and a major financial backer of Ronald Reagan, was an early champion of corporate political-action committees. "I don't advocate that business buy a legislator," he said in 1978. "Rhetoric is a very fine thing; a little money to go with the rhetoric is better. They listen better."

Around the same time, unions sought to push through a labor-law reform bill that shared many features with EFCA. The legislation would have made it easier for workers to organize, by streamlining the process of holding elections under the oversight of the National Labor Relations Board and imposing stiff fines on companies that fired activists. The Business Roundtable, the traditional political leader of major corporations, had generally hesitated to take anti-union positions in public, and some members initially declined to oppose the bill. The group ultimately joined the fight, however, as did a number of major trade associations and the newly revitalized U.S. Chamber of Commerce, which represented smaller businesses and took a much harder line toward labor.

As with EFCA today, the business interests in the late 1970s mounted a multimillion-dollar campaign that included a massive lobbying effort by CEOs from around the country to pressure Congress, as well as the formation of "grass-roots" coalitions and the purchase, from friendly economists, of research concluding that the bill would all but destroy the U.S. economy. As with EFCA, the Democrats controlled both houses of Congress and the White House, and the legislation had overwhelming support in the House of Representatives. Yet the unions couldn't get it through; in the end, it was filibustered to death by Senators Orrin Hatch and Richard Lugar. "For the first time in twenty years, the business community had vanquished organized labor in a fight over a 'gut' issue for labor," the *New York Times* observed at the time. No significant revision of union-organizing laws has taken place since then, as labor's ranks, and influence, have steadily dwindled.

In 1954, there were 17 million union members, which then meant 35 percent of the workforce. This was the high point of unionism in the country and also was, not coincidentally, when the American middle class was created. The decline of the union movement since then has been accompanied by growing social inequality, slashed salaries, and, for the first time in American history, a de-linking of rising productivity from rising wages. Labor has had al-

THE BUSINESS LOBBY HAS FRAMED ITS OPPOSITION TO EFCA AROUND THE "SECRET BALLOT" AND LABOR "COERCION." BUT THE CURRENT RULES GIVE EMPLOYERS A CHOKEHOLD OVER UNION ELECTIONS most no voice in any administration since 1980, including that of Bill Clinton, whose White House political director, Rahm Emanuel (now Obama's chief of staff), was a chief operative in passing NAFTA over the strenuous objections of labor; moreover, Clinton's chief of staff, John Podesta (who led Obama's transition team), spearheaded the campaign to pass Permanent Normal Trade Relations with China, which further decimated union jobs.

Under George W. Bush, all the key agencies were stacked with anti-union appointees. Bush's labor secretary, Elaine Chao—the wife of Senate Minority Leader Mitch McConnell, and now a "distinguished fellow" at the Heritage Foundation—worked openly against EFCA, saying in 2007, "A worker's right to a secret-ballot election is an intrinsic right in our democracy that should not be legislated away at the behest of special-interest groups." The attorney Robert Battista, whom Bush appointed chairman of the NLRB, had during the 1990s counseled Detroit's newspapers on union-breaking and now works for a law firm that advises companies on how to keep unions out.

Although the business lobby has framed its opposition to EFCA around the issues of the "secret ballot" and labor "coercion," the current rules give management a chokehold over union elections. Employers can require that workers attend "captive audience" meetings, that is, anti-union presentations during the workday at which union supporters are forbidden to speak. Firing of union activists and intimidation of employees during organizing drives are routine practices and have been encouraged by lax enforcement of the law: according to the NLRB's most recent annual report, it took an average of about eighteen months for administrative-law judges to rule on charges of unfair labor practices. In the uncommon cases where an employer is found guilty of illegally firing or demoting a worker, the firm typically needs only to reinstate the worker and pay back wages, minus any income the worker may have earned in the interim. With delays so long and penalties so minor, as the group Human Rights Watch noted in a recent report, companies often regard fines as "a cost of doing business—a small price to pay for defeating worker organizing efforts."

Leading the fight against EFCA has been an organization called Coalition for a Democratic Workplace (CDW), an ad-hoc group formed in cooperation with the U.S. Chamber of Commerce. Buoyed by funding from hundreds of companies and trade associations, CDW and its allies have spent tens of millions of dollars on TV and radio advertisements, worked the right-wing talk-radio circuit, and paid for "independent" studies to be trotted out in congressional hearings.

Technically, CDW was created in 2007, but its true origins date to several years earlier; and its effective birthplace, as with so many conservative efforts in Washington, was the offices of Grover Norquist's Americans for Tax Reform. As early as the fall of 2005, Norquist's group began discussing the danger EFCA posed during the monthly meetings of its First Friday Labor Reform Working Group. On November 16, 2006, eight lobbyists—all representing organizations that had taken part in

the First Friday meetings and that would become key actors in CDW—signed an anti-EFCA letter on U.S. Chamber of Commerce letterhead and sent it to Congress. The lobbyists included Bruce Josten of the Chamber, John Gay of the National Restaurant Association, and Robert Green of the National Retail Federation Association. Other early advocates of the anti-EFCA campaign included the Retail Industry Leaders Association, the International Council of Shopping Centers, and the

Food Marketing Institute—in all of which associations Walmart looms large as a donor and political force.

On an institutional level, the prime movers against EFCA have been CDW and dozens of other nonprofit advocacy groups. Norquist's group opposes EFCA through its Alliance for Worker Freedom, a special project that opposes "overregulation of the marketplace" and other "atrocities." Another key group, SOS BALLOT, which seeks to stop card-check at the state level by amending state constitutions, is headquartered at a Las Vegas mail drop; its sole officer is one Charles Hurth, a frequent cat's-paw for right-wing corporate efforts.[1] Yet another group is the Employee Freedom Action Committee, created by Richard Berman, a prominent lobbyist for the food and restaurant industry.

In terms of personnel, the fighters in the anti-EFCA crusade are approximately two dozen lobbyists and consultants, most of them Republicans, some of whom are married to each other, many of whom have shared the same jobs in government and at the trade associations. A number are former G.O.P. staffers from Capitol Hill, such as Doug Loon, regional director of the U.S. Chamber in the Midwest and a onetime aide to Specter, and Breana Teubner, who once worked for Congressman Jeff Flake and now lobbies for Walmart. Next come those who are politically connected through blood and the campaign trail, such as Katherine Lugar[2] of the Retail Industry Leaders Association (RILA) and Todd Harris, a former Jeb Bush and John McCain aide who crafted CDW's lobbying and media strategy at the public-relations firm Navigators Global. A number of central figures are veterans of Elaine Chao's Labor Department: besides Glenn Spencer, these include Marlene Colucci, of the American Hotel and Lodging Association (AH&LA), and Geoffrey Burr, a lobbyist for Associated Builders and Contractors. (Burr's wife, Danielle, works for Senate Republican Whip Jon Kyl, a strident EFCA opponent.)

But with Republicans now a diminished presence in government, the anti-EFCA lobby desperately needs Democrats to block the bill. "Coalition members are also thinking ahead," Colucci wrote last December about a CDW Steering Committee meeting. "We have scheduled meetings with some of the more conservative Democrats who recognize the threat card check poses to the health of the American economy." To win over the majority party, anti-EFCA advocates have spent heavily to buy Democratic lobbying power. Key acquisitions include Jonathan Hoganson, Rahm Emanuel's former legislative director, who represents RILA and Walmart for the firm of Mehlman Vogel Castagnetti; Tony Podesta, brother to John, whose firm represents Walmart and whose lobbyists include a former top aide to Senator Pryor; Tony Podesta's wife, Heather, whose firm represents The Home Depot; and The Alpine Group, which also represents The Home Depot, using a team that includes a former legislative aide to Senator Lincoln.

The amount of money being spent by this coalition is anyone's guess. Public records show that during the last quarter of 2008, there were at least 126 registered lobbyists working against EFCA on behalf of companies and trade groups. And countless more nonprofit groups, which aren't required to register, are also lobbying against the bill. For example, Employee Freedom Action Committee—the group run by Richard Berman, the food and restaurant lobbyist—shares office space and staff with the Center for Union Facts, which in addition to its own advocacy against EFCA also gathers "information about the size, scope, political activities, and criminal activity of the labor movement." Berman and Company, a for-profit management firm of which Berman is sole owner and president, runs both groups, as well as at least another ten interlocking corporate front groups. Berman himself holds no fewer than thirteen positions within these various entities.

Berman is required to publicly disclose virtually no financial information about his company and very little specific data about his nonprofits. The Center's 2007 IRS tax return, the last currently available, shows that it took in $2.5 million that year, almost entirely from unnamed donors, including one who put up $1.2 million. About half of the group's money was spent on an anti-union print and online ad campaign, and $840,000 went to Berman and Company for "management" services. (The Center rails against highly paid union officials, listing on its website the annual salaries of top officials at the AFL-CIO. But as of 2006, the last year listed, the federation's three highest-paid employees made about $680,000 combined, well less than what Berman's company takes to manage only the Center for Union Facts.)

[1] *In 2004, Hurth helped set up Choices for America, a secretive G.O.P. effort to get Ralph Nader on the presidential ballot in key states so that Republicans would have an electoral advantage. More infamously, Hurth was also successfully sued by, and in 1990 forced to pay $27,500 in damages to, a woman whose buttocks he bit in a St. Louis bar.*

[2] *Her husband, David Lugar, lobbies for the Chamber of Congress and Tyson Foods; her father-in-law is Senator Richard Lugar of Indiana.*

In addition to all this money for Washington lobbying and consulting, prodigious sums are also being spent on advertising and other, more shadowy activities. The website of the AH&LA says it is seeking to raise "a minimum of $30 million" for the CDW's coffers to pay "for a 'surround sound' campaign targeting swing voters in key states." The Alliance to Save Main Street Jobs, a CDW spin-off, has the specific purpose of providing academic "research" to counter EFCA; it funded a March 2009 study titled "An Empirical Assessment of the Employee Free Choice Act: The Economic Implications," which was written by Anne Layne-Farrar, an economist at a corporate consulting firm, and predicted dire consequences if the bill was passed. (A Fox News Special Report highlighted Layne-Farrar's Senate appearance—as did a number of other outlets, none of which mentioned the source of her funding—quoting her as saying that passage "would result in an increase in the unemployment rate of around 1½ to 3 percentage points.")

"Let's stand up to the business lobby," Barack Obama declared in April 2008 at a union event in Pennsylvania, during a presidential campaign in which he pledged to make passage of EFCA a top priority; and in fact, during his term in the Senate, Obama had cosponsored an earlier version of the bill. Unions spent tens of millions of dollars to support Obama against John McCain, dispatching thousands of volunteers to swing states to bolster the young nominee's ground operation. Overwhelming union support for Obama in Michigan made it the first swing state the G.O.P. gave up on, and labor backing was vital to Obama's eventual triumphs in Ohio and Pennsylvania. So one can hardly blame the unions for imagining that Obama would aggressively promote their interests, EFCA in particular, after he assumed office. But the unions' few legislative victories notwithstanding—as well as the appointment as labor secretary of former Representative Hilda Solis, who by all accounts is very sympathetic to unions—Obama has failed to embrace their agenda.

Privately, union officials clearly feel let down by the new president. "It's been disappointing," one told me. "We would like a higher decibel level. We haven't had the bully pulpit. Strengthening unions is one of the most important things he can do to rebuild the middle class, but he hardly mentions EFCA when he talks about that goal." The day after we spoke, the *New York Times* published a lengthy interview with Obama in which he said that better schools, financial reform, and more affordable health care were the pillars of the future economy. Asked specifically what he saw as "today's ticket to the middle class," the president replied: "I think it would be too rigid to say everybody needs a four-year college degree. I think everybody needs enough post-high-school training that they are competent in fields that require technical expertise, because it's very hard to imagine getting a job that pays a living wage without that—or it's very hard at least to envision a steady job in the absence of that." Missing was any mention of unions or EFCA.

The best assessment of Obama's mind-set I've heard so far was offered by Glenn Spencer at the Chamber of Commerce. "The administration is working on a lot of serious issues, the kind of things that make a legacy—health care, the economy, immigration reform," he said. "This is just a distraction. It will split the Senate right down the middle, and you still may not win. [Obama's] not going to ignore the unions. But will he sink a lot of political capital into a radioactive issue like this? I don't think so. Congress has noted the lack of engagement. They know what his priorities are."

The Democratic-led Congress also has been a letdown to unions. Back in August of 2008, when it was already clear that the G.O.P. would be routed in the fall election, the Retail Industry Leaders Association gathered for a retreat in Jackson Hole, Wyoming. One of the group's top flacks, Brian Dodge, flipped through a PowerPoint presentation that warned of "Harsh Realities" regarding EFCA's favorable chances. Consideration of the bill, one slide advised, would be "likely in the first 100 days of the next Congress," which would be more amenable to the bill than the last Congress. But the intense business lobbying of recent months has clearly had an impact on wavering legislators, especially moderate Democrats from states like Arkansas, where union voters are few. Ironically, Obama's election might also have helped to flip some senators' votes (for example, Specter and Lincoln) or prompted others to delay in announcing their position (as Landrieu and Pryor have). When the bill came up for a vote in 2007, noted Gene Barr, head of government affairs for the Pennsylvania Chamber of Business and Industry, "you had a president who was adamantly opposed and sure to veto it. So it was a free vote. You could tell labor you were with them but there was no chance it was going to pass. This time it's a different climate."

In April I traveled to Pittsburgh to meet with the pro-EFCA activists from the United

Steelworkers (USW). The city has rebounded from the collapse of the steel industry in the 1970s and is often hailed today as a model of urban post-industrialism. Most of the new jobs there have been in health care and higher education, and these jobs typically pay much less than what workers at the steel mills made. Moreover, the city's demographics have become bizarrely skewed, as college graduates and middle-aged people have fled—leaving large ranks of the elderly, who scrape by on union health-care benefits and pensions. Overall, Pittsburgh is one of the only major cities in the country to have lost population for the past three decades.

Since the collapse of the steel industry, the USW has had to diversify, with more than 80 percent of its membership now working in non-steel industries, including automobile parts, aluminum, mining, plastics, and rubber, as well as forestry and even undertaking. Steffi Domike, an outreach coordinator for the union, drove me out to the old site of Andrew Carnegie's Homestead Works mill, where in 1892 strikers fought with hundreds of Pinkerton detectives brought in by the company. The mill shut down in 1986 and was demolished and replaced fifteen years later by The Waterfront, the biggest shopping complex in the region. All that remains of the mill is a dozen old brick smokestacks and the pump house, where the strikers fought Carnegie's thugs. It was a cool, sunny day, and a breeze carried the overwhelming smell from a P. F. Chang's. "This was all mill and now it's all mall," said Domike, who wore a blue USW jacket. "We've gone from production to consumption. They've created an Industrial Stonehenge with these relics dropped down in the middle of a consumption paradise. It's like those suburban neighborhoods called Foxhall Manor, where they killed all the foxes to build it."

The following day, at the USW's thirteen-story headquarters in downtown Pittsburgh, I met Tim Waters, head of the union's Rapid Response network on EFCA. Along with Bob McAuliffe, a regional coordinator on Waters's team, we drove to Beaver, an aging industrial town an hour north of the city. "I've been an organizer in this union and I can tell you this," Waters said over his shoulder, looking me in the eye in the back of the car. "If the boss really doesn't want the union and is willing to spend what's needed, you can't win. They hire union-busting firms that charge $600 to $1,000 an hour, and they're good at what they do. At the end of the day, they just fire, threaten, and harass the leaders. Even if you get past that and the workers vote for a union, you still need a contract; if you don't have one in a year they can begin the process of decertifying the union, so the company will just stall it out. By then, the workers are disillusioned, they've taken abuse, some have been fired, and they start peeling off."

USW Local 8183 is located in a brick building on a side street in Beaver, a block off the Beaver River. Waters headed straight for the office of Phil Lucci, the union president, and eyed the jars of peanut-butter pretzels, caramels, and red gummy bears on his desk. It wasn't long before the conversation turned to the bitter topic of Arlen Specter. Early this year, before Specter left the Republican Party, the AFL-CIO thought it had a deal with him: labor would back him for re-election against a Democratic opponent in 2010 in exchange for his continued support of EFCA.

Waters acknowledged his frustration with Specter but said it was important for union activists to keep their heads. "I've never been madder at any legislator than I am with him right now," he said. "But our challenge becomes what do we do about it. We've asked our members to take action [on EFCA] fourteen times already, but now we have to go back and tell them, 'I know we told you he said he was with us, but you have to do more.' We have to assume that he changed his position before and there's no reason to think he can't do it again." (In fact, of this writing, Specter had softened his opposition and was trying to broker a compromise with pro-labor Democrats in the Senate.)

The unions have fought too long and spent too much money to walk away from the EFCA fight with nothing. Can they push Obama and the Democrats to approve a compromise bill that genuinely makes it easier for workers to organize unions? Or will any bill end up being merely a face-saving gesture? Given the shakiness of support for EFCA, unions will probably have to drop the two key provisions on organizing: majority sign-up and binding arbitration. Labor will now likely focus on heightening the penalties for companies that violate labor law, and on narrowing the window during which union elections are held (which would give employers less time to exert pressure on workers).

Meanwhile, business will be doing its best to prevent the passage of any bill at all. "From the union perspective, this is a once-in-a-lifetime opportunity," Glenn Spencer told me at the Crystal City Marriott. "They have the White House and a near filibuster-proof majority in the Senate. They'd be foolish to waste the opportunity. For business, we see this as a killer." He added: "And if it passes, when is the next time we'll have a filibuster-proof majority to repeal it?" ■