



# FACT SHEET

## National Institute for Labor Relations Research

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# Can a Faithful Catholic Today Belong, in Good Conscience, to Any Large, U.S.-Based Union?

By Stan Greer

Few Democratic Party constituencies were quicker and more vociferous than the union brass in commending President Barack Obama's announcement on May 9, 2012, endorsing state court decisions and statutes that change the traditional definition of marriage by formally instituting same-sex unions.

The top bosses of the AFL-CIO, the American Federation of State, County and Municipal Employees (AFSCME), the Communications Workers of America (CWA), the American Federation of Teachers (AFT), the United Auto Workers (UAW), the Service Employees International Union (SEIU), and a host of other unions all issued statements clearly implying that all right-thinking people should agree with Mr. Obama's new stance, rather than the one he purported to hold while campaigning for the presidency in 2007 and 2008 and during his first three years and three months in the White House.<sup>1</sup>

For example, then-AFSCME President Gerald McEntee branded all Americans who resist the redefinition of marriage endorsed by Mr. Obama as supporters of "discrimination," which "harms all of us, not just LGBT [lesbian, gay, bisexual and transgendered] Americans." He called for the eradication of all statutes and constitutional provisions defining marriage as a union between one man and one woman. All such laws are "unjust" and their supporters plainly have malevolent motives, according to Mr. McEntee:

We have an obligation to work to overturn unjust laws and amendments to state constitutions that codify prejudice and promote discrimination against our fellow citizens. The President deserves praise for recognizing that this issue is about equality under the law and the right of all Americans to live their lives free from discrimination.<sup>2</sup>

UAW President Bob King went so far as to suggest that he and other UAW officials were compelled to support a redefinition of marriage by the union's proud history of opposing race-based discrimination: "The UAW helped organize African-American workers during the 1930's when companies used race as a divisive anti-union strategy."<sup>3</sup> (Mr. King's self-serving claim regarding the

<sup>1</sup> See Kenneth Quinnell, "Major Unions Back Obama's Stand For Marriage Equality" and "More Unions Applaud Obama For Marriage Equality Stance." Both of these commentaries were originally posted on the Crooks & Liars web site and were reposted on the AFL-CIO Now blog on May 10 and May 12, 2012, respectively.

<sup>2</sup> See "Major Unions Back Obama's Stand For Marriage Equality," *ibid*.

<sup>3</sup> See "More Unions Applaud Obama For Marriage Equality Stance," Footnote 1.

UAW's Depression-era stance on racial matters was basically hogwash, as historian Paul Moreno showed in his well-documented 2006 book analyzing relations between black Americans and Organized Labor since the Civil War.<sup>4</sup>)

But as officers of large U.S. unions were celebrating the President's newfound support for the redefinition of marriage, the U.S. Conference of Catholic Bishops (USCCB) condemned Mr. Obama's action no less passionately, albeit more politely.

USCCB President Timothy Dolan's response to the White House included strong admonitions as well as a vow to continue praying for the President and his Administration:

[W]e cannot be silent in the face of words or actions that would undermine the institution of marriage, the very cornerstone of our society. The people of our country, especially our children, deserve better. Unfortunately, President Obama's words today are not surprising since they follow upon various actions already taken by his Administration that erode or ignore the unique meaning of marriage. I pray for the President every day, and will continue to pray that he and his Administration act justly to uphold and protect marriage as the union of one man and one woman.<sup>5</sup>

### **'It Would Be a Grave Injustice If the State Ignored the Unique and Proper Place of Husbands and Wives'**

In a pastoral letter issued in November 2009, the USCCB explained why the Catholic Church rejects the view, shrilly espoused by McEntee, King, and a host of other top union officials, that opposing legal recognition for various same-sex relationships is tantamount to opposing "fairness, equality and civil rights":

By attempting to redefine marriage to include or be made analogous with homosexual partnerships, society is stating that the permanent union of husband and wife, the unique pattern of spousal and familial love, and the generation of new life are now only of relative importance rather than being fundamental to the existence and well-being of society as a whole. . . .

[I]t is not unjust to oppose legal recognition of same-sex unions, because marriage and same-sex unions are essentially different realities. "The denial of the social and legal status of marriage to forms of cohabitation that are not and cannot be marital is not opposed to justice; on the contrary, justice requires it." [Citation omitted.] To promote and protect marriage as the union of one man and one woman is itself a matter of justice. In fact, it would be a grave injustice if the state ignored the unique and proper place of husbands and wives, the place of mothers and fathers, and especially the rights of children, who deserve from society clear guidance as they grow to sexual maturity. Indeed, without this protection the state would, in effect, *intentionally* deprive children of the right to a mother and father.<sup>6</sup>

Unlike many other stances taken by the USCCB over the years, offering government recognition only to marriages in which "a man . . . cling[s] to his wife, and the two . . . become as one"<sup>7</sup> is not a

<sup>4</sup> *Black Americans and Organized Labor: A New History*, Louisiana State University Press, Baton Rouge, pp. 180-181.

<sup>5</sup> "Cardinal Dolan: 'President Obama's Remarks on Marriage 'Deeply Saddening.'"

<sup>6</sup> *Marriage: Love and Life in the Divine Plan*, issued by the USCCB November 17, 2009, p. 23.

<sup>7</sup> See Matthew 19:5 (New American Bible, or NAB, translation).

political issue over which there “may be a legitimate diversity of opinion even among Catholics.”<sup>8</sup> On the contrary, “all Catholics are obliged to oppose the legal recognition of homosexual unions . . .”<sup>9</sup> Catholics, whether they are elected officials or not, “who would move from tolerance to the legitimization of specific rights for cohabiting homosexual persons” need to be reminded that:

[T]he approval or legalization of evil is something far different from the toleration of evil.

In those situations where homosexual unions have been legally recognized or have been given the legal status and rights belonging to marriage, clear and emphatic opposition is a duty. One must refrain from any kind of formal cooperation in the enactment or application of such gravely unjust laws and, as far as possible, from material cooperation on the level of their application. In this area, everyone can exercise the right to conscientious objection.<sup>10</sup>

**‘[T]hese Associations Must Avoid Everything That Is Not in Accord, Either in Principle or Practice, With the Teachings . . . of the Church . . .’**

If the Church indeed teaches that “all Catholics are obliged to oppose the legal recognition of homosexual unions,” can any Catholic in good conscience join a labor union that vociferously campaigns in favor of that very thing?

There is no doubt about the fact that Catholic social teaching going back to Pope Leo XIII’s encyclical *Rerum Novarum* (1891) has strongly endorsed the individual employee’s right to join a union and, in many cases, actively encouraged employees to form labor associations. *Rerum Novarum* itself states, for example, that “to enter into a [trade union] is the natural right of man; and the State has for its office to protect natural rights, not to destroy them.”<sup>11</sup>

But the fact that the state is duty-bound to protect each employee’s freedom to join a union does not imply that an employee, and a Catholic employee in particular, may licitly join *any* union. Several popes have issued encyclicals that touch upon the question of under what circumstances Catholics may properly join non-Catholic unions. In 1912, for example, Leo XIII’s immediate successor, Pius X, directed Catholic workers in Germany to confirm for themselves that a non-Catholic union does not violate any Catholic religious principles before joining it:

[I]f Catholics are to be permitted to join the trade unions, these associations must avoid everything that is not in accord, either in principle or practice, with the teachings and commandments of the Church or the proper ecclesiastical authorities. Similarly, everything is to be avoided in their literature or public utterances or actions, which in the above view would incur censure.<sup>12</sup>

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<sup>8</sup> See “Worthiness to Receive Holy Communion: General Principles,” a memorandum sent by then-Cardinal Joseph Ratzinger (later Pope Benedict XVI) to Cardinal Theodore McCarrick, made public early in July 2004).

<sup>9</sup> Congregation for the Doctrine of the Faith, “Considerations Regarding Proposals to Give Legal Recognition to Unions Between Homosexual Persons,” June 3, 2003.

<sup>10</sup> *Ibid.*

<sup>11</sup> Quoted by Charles W. Baird in *Liberating Labor: A Christian Economist’s Case For Voluntary Unionism* (Christian Social Thought Series, #5) Acton Institute, Grand Rapids, Mich., 2002, p. 5.

<sup>12</sup> *Ibid.*, p. 60.

Leo XIII himself issued a similar caution in his encyclical *Longinqua*, addressed to the American bishops. Writing with Catholic workers specifically in mind, Leo said it was their duty not to associate themselves with unions if they judged their words or deeds to be immoral:

[W]orking classes . . . assuredly have the right to unite in association for the promotion of their interests. . . . But it is very important to take heed with whom they associate, lest whilst seeking aid for the improvement of their condition they may be [imperiling] far weightier interests. The most effectual precaution against this peril is to determine with themselves at no time or in any matter to be parties to the violation of justice.<sup>13</sup>

If “all Catholics are obliged to oppose the legal recognition of homosexual unions,” and the top officers of unions and union conglomerates like the CWA, the AFT, the UAW, the SEIU, the AFL-CIO and AFSCME all use their status as heads of large organizations to promote the legal recognition of homosexual unions, then it follows that, under the principles enunciated by Leo XIII and Pius X, Catholic employees should avoid associating with them.

It should be noted that major unions’ support for the redefinition of marriage has not been limited to a few public statements, and in many cases this support goes back years. For example, in 2008, the California Teachers Association (CTA), the largest state affiliate of the NEA teacher union, put up \$1.25 million, mostly forced-dues-fueled union treasury money, in an unsuccessful bid to defeat Proposition 8, a ballot measure defining marriage as the union of one man and one woman under the California Constitution.<sup>14</sup>

### **Top Union Officials Refuse Even to Consider It Possible That Policymakers Have a Unique Interest In Promoting Stable Unions Between Biological Parents**

As far back as 2004, AFL-CIO union bosses and officers of the NEA-affiliated Michigan Education Association (MEA) teacher union financed with their forced-dues treasuries a campaign against a constitutional amendment in the Wolverine State blocking government recognition for same-sex unions. A Detroit *News* poll taken in mid-October 2004 showing that two-thirds of union members supported the amendment didn’t appear to faze the union brass. That same year in Ohio, the AFL-CIO also publicly opposed a traditional-marriage amendment, despite strong support for it among the union rank-and-file. Ultimately, both the Michigan and Ohio amendments won approval.<sup>15</sup>

And just this year, the AFL-CIO and Change to Win Federation (CTWF) union conglomerates and the NEA union jointly submitted *amicus* briefs in two U.S. Supreme Court cases pertaining to same-sex unions. In *United States v. Windsor*, top union officials are calling on the High Court to toss out as unconstitutional the federal Defense of Marriage Act (DOMA) of 1996. DOMA defines marriage as the union of one man and one woman for federal and inter-state recognition purposes. In *Hollingsworth v. Perry*, the Big Labor team is asking for California’s Proposition 8 to be put on the chopping block.<sup>16</sup>

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<sup>13</sup> *Ibid.*, p. 59.

<sup>14</sup> Robert Benincasa, “Teachers’ Union, Members at Odds on Prop. 8?” National Public Radio web site, February 6, 2009.

<sup>15</sup> Kirsten Andersen, “Union Leaders Line up Behind Same-Sex ‘Marriage,’ Obama,” *LifeSite News*, October 19, 2012.

<sup>16</sup> Jackie Tortora, “AFL-CIO Files Supreme Court Amicus Briefs to Support Marriage Equality,” AFL-CIO Now blog, March 5, 2013.

Neither union bosses' anti-traditional marriage rhetoric nor union lawyers' briefs bespeak a willingness to consider the possibility that the state might have a legitimate and unique interest in promoting stable unions between biological parents or potential biological parents. Even many opposite-sex couples who, at the time of their marriage, are deemed to be infertile "end up having children who would be served by the parents' healthy marriage," and, in any case, the effort to determine the fertility of an opposite-sex couple in advance of marriage "would require unjust invasions of privacy."<sup>17</sup> Meanwhile, justice and fairness do not obviously require that the state promote intrinsically infertile unions in the same way.

One doesn't have to accept the Catholic Church's teaching on marriage to understand that opponents of redefining marriage are not typically motivated by bigotry. Yet Organized Labor bosses, by refusing to recognize publicly that there are any valid reasons for concern about tossing out marriage laws now on the books in the overwhelming majority of states, seem to make that assumption.

Moreover, the understanding of marriage as exclusively a male-female union is not the only Church doctrine that multiple large unions decry as bigotry, with unionized workers' compelled dues and fees supplying the megaphone.

### **AFL-CIO Position: *Roe v. Wade* 'Correctly Applied' the Right to Privacy Principle to The 'Right to Choose an Abortion'**

Large unions have also repeatedly branded Americans who support the Church's core moral teaching that innocent human life should be legally protected at all stages, including before birth,<sup>18</sup> as retrograde opponents of individual liberty and women's rights. In the case of the AFL-CIO and the Change to Win Federation and a number of individual unions, support for abortion on demand has been less unabashed than support for the legal redefinition of marriage.

In fact, when it's convenient, AFL-CIO officers sometimes claim that the giant union conglomerate is "neutral" with regard to abortion. Big Labor allies who make the same claim may be speaking in ignorance. In 1999, for example, Msgr. George Higgins, a professor at Catholic University in Washington, D.C., and a lifelong apologist for compulsory unionism, insisted in a newspaper column that "as an organization" the AFL-CIO had "not taken a stand" on abortion.<sup>19</sup>

The monsignor, who passed away in 2002, is just one of many people to make such an assertion, and he may well have believed it. But it isn't remotely true.

As far back as October 1989, the AFL-CIO was part of a coalition of organizations that submitted a brief to the U.S. Supreme Court urging the justices "to strike down an Illinois statute

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<sup>17</sup> Sherif Girgis, Ryan T. Anderson, Robert P. George, *What Is Marriage? Man and Woman: A Defense*, Encounter Books, New York, N.Y., 2012, p. 76.

<sup>18</sup> See, e.g., *The Catechism of the Catholic Church*, online version, Paragraph 2273.

<sup>19</sup> "The AFL-CIO's Neutral Position on Abortion," *The Yardstick*, August 16, 1999.

requiring abortion clinics to meet stricter standards and an Ohio law requiring parental consent [for] girls under 18.”<sup>20</sup>

Top AFL-CIO bosses and their partners based their brief on highly controversial constitutional theories that few Americans other than the most militant proponents of abortion on demand accept. The coalition far-fetchedly contended that an almost unlimited “right to an abortion can be found in the equal-protection clause of the Constitution, as well as the right to privacy.”<sup>21</sup> The brief extolled *Roe v. Wade*, the 1973 U.S. Supreme Court decision that, together with the simultaneously decided *Doe v. Bolton*, had effectively struck down state laws prohibiting abortions at any stage of a pregnancy.

*Roe v. Wade*, union lawyers agreed, “correctly applied” the right-to-privacy principle to the “right to choose an abortion.” As pro-life attorney James Bopp Jr. observed after reviewing the brief, it asked “the Supreme Court majority to overturn” limitations on abortion “that even the pro-*Roe* majority had adhered to.”<sup>22</sup>

Less than a year earlier, the Public Employees Division (PED) of the AFL-CIO, AFSCME, and the NEA were part of a coalition submitting a brief to the High Court in *Webster v. Reproductive Health Services*. In *Webster*, officers of the aforementioned unions sided with abortion facilities who were seeking to strike down a Missouri law generally prohibiting the use of state and local taxpayer dollars to finance abortions or “encouraging or counseling” a woman to have an abortion. Effectively, the unions joining the brief took a stance “in support of unrestricted legal abortion.”<sup>23</sup>

Over the past decade, pro-abortion activism by major unions and/or their affiliates has intensified. For example, in 2003 the UAW union brass attempted, unsuccessfully, “to require the big three automakers and two major auto parts manufacturers to pay for abortions in employee health insurance plans.”<sup>24</sup> That fall, AFSCME announced it would cosponsor a march on Washington, D.C., that abortion advocacy groups such as Planned Parenthood and the Feminist Majority had planned for April 2004.<sup>25</sup> In the words of the militantly pro-abortion National Organization for Women (NOW), the so-called “March For Freedom of Choice” brought a “unified message to the abortion rights movement and sent a clear message to elected officials” that anything less than abortion on demand was “unacceptable.”<sup>26</sup>

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<sup>20</sup> “274 Pro-Abort Organizations Ask Court to Uphold *Roe*,” *National Right to Life News*, November 2, 1989. The *amicus* brief quoted here was filed in the cases of *Turnock v. Ragsdale* and *Ohio v. Akron Center for Reproductive Health*. The first case was dismissed before it was heard by the High Court.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> “Organization Watch: *Webster v. Reproductive Health Services*” Life Decision International, August 2007.

<sup>24</sup> Steven Ertelt, “California Labor Group Asks National AFL-CIO Labor Union to Back Abortion,” *LifeNews.com*, August 7, 2006.

<sup>25</sup> Joe Kral, “AFSCME Labor Union Criticized For Sponsoring Pro-Abortion March,” *LifeNews.com*, August 12, 2003.

<sup>26</sup> Amanda Cherrin, “Save Women’s Lives: March For Freedom of Choice in 2004,” *National Now Times*, Fall 2003.

## **In 2006, the AFL-CIO State Affiliate in California Lobbied Intensely Against Parental Notification Initiative**

In 2006, the statewide AFL-CIO subsidiary in California campaigned against Proposition 85, a November ballot initiative that would simply have required the notification of parents before abortions were performed on minors.<sup>27</sup> That same year, the AFL-CIO-affiliated American Federation of Teachers union issued a resolution specifically affirming its support for universal access to “birth control and abortion.”<sup>28</sup>

Undoubtedly, the greatest assistance the union hierarchy has yet provided to the cause of abortion on demand was the massive and indispensable lobbying support it lent to the so-called Affordable Care Act (ACA), adopted by Congress and signed into law by President Obama in March 2010.

Under the status quo prior to the ACA, elective abortions were excluded from all health-insurance plans receiving federal subsidies. Insurance companies and private employers could and frequently did make elective abortions a part of employee insurance plans. But this evil (from the perspective of Catholics and other opponents of abortion) was done without the active involvement of the federal government.<sup>29</sup>

As the USCCB pointed out repeatedly in analyses issued both before and after the ACA was adopted, this law in key respects marks a break with the longstanding federal policy of not funding elective abortions.

As adopted in March 2010, the ACA authorized and appropriated “\$7 billion over five years . . . for services at Community Health Centers” that “can be used directly for elective abortions.” The ACA also authorized federal tax credits that may be used to pay “overall premiums for health plans covering elective abortions.” Previously, federal policy had barred the use of “federal funds for any part of a health benefits package that covers elective abortions.” And the ACA mandated that insurance companies “deciding to cover elective abortions in a health plan ‘shall . . . collect from *each enrollee* in the plan . . . a separate payment’ for such abortions.” No accommodation was permitted “for people morally opposed to abortion.”<sup>30</sup> This is why the USCCB charged that the ACA, as enacted,

expands federal funding and the role of the federal government in the provision of abortion procedures. In so doing, it forces all of us to become involved in an act that profoundly violates the conscience of many, the deliberate destruction of unwanted members of the human family still waiting to be born.<sup>31</sup>

<sup>27</sup> Joe Mathews, “Labor Is Backing Abortion Rights,” *Los Angeles Times*, August 7, 2006.

<sup>28</sup> AFT Resolutions, “Support For Reproductive Rights,” accessible from the [www.aft.org](http://www.aft.org) web site.

<sup>29</sup> “Issues of Life and Conscience in Health Care Reform: An Analysis of the ‘Patient Protection and Affordable Care Act’ of 2010,” USCCB Secretariat of Pro-Life Activities, May 24, 2010. See esp. pp. 1-2.

<sup>30</sup> “Abortion Funding in the New Health Care Reform Act,” USCCB Secretariat of Pro-Life Activities, April 12, 2010.

<sup>31</sup> Cardinal Francis George (then USCCB chairman), “The Cost Is Too High; the Loss Too great,” March 15, 2010 statement to the press.

## **‘Many Unions . . . Displayed Their Clout Through Threats to Withhold Endorsements From Lawmakers Who Failed to Back’ Obamacare**

If the charge that the ACA “forces us all to become involved” in the “deliberate destruction” of our fellow humans is accurate, top bosses of the AFL-CIO and CTWF conglomerates and their affiliated unions and the NEA teacher union deserve the lion’s share of the credit. Even more than President Obama, then-House Speaker Nancy Pelosi (D-Calif.), Senate Majority Leader Harry Reid (D-Nev.), or any other elected official, union officials are responsible for Congress’s adoption of the ACA, commonly referred to as Obamacare.

On March 21, 2010, the House rubber-stamped H.R.3590, the version of Obamacare that Mr. Reid had rammed through the Senate early Christmas morning, 2009, and a “fixer” bill (H.R.4872) amending the Senate measure. The following day a legislative wrap-up by the nonpartisan Center for Responsive Politics (CRP) explained how it all had happened.

“Supporters of both measures received out-sized support from labor unions,” noted the CRP’s Michael Beckel in his report. He went on to specify that, since 1989: “Members who voted for both bills received an average of about \$917,500” in reported contributions alone from labor union bosses. Furthermore, “in the final push for a vote,” many union bosses and union political operatives

also displayed their clout through threats to withhold endorsements from lawmakers who failed to back the bill. They also vowed to support primary challenges or third-party bids against incumbents who opposed both bills.<sup>32</sup>

Virtually every, if not every, major national union was involved in bringing about the enactment of a law that “expands federal funding and the role of the federal government in the provision of abortion procedures.”

Since its passage, Obamacare has in important regards turned out to be more pro-abortion than most of its pro-life opponents imagined. The most notorious example emerged in 2011. That year, Obama-appointed U.S. Department of Health and Human Services (HHS) Secretary Kathleen Sebelius formulated a rule defining sterilization and contraceptives, including abortifacient contraceptives that may terminate pregnancies before or after implantation of the new life in the womb rather than exclusively prevent pregnancies, as “necessary preventive health care” under the ACA.

Sebelius made no distinction between established therapeutic uses of contraceptives and their use for the exclusive purpose of rendering otherwise potentially fertile couples temporarily or permanently infertile. Since the Patristic era (circa 100 AD to 800 AD), the Catholic Church has taught that the

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<sup>32</sup> “Big Labor Gave Big Support to Health Reform Supporters, Health Interests Lent More Support to Opponents,” OpenSecrets blog, March 22, 2010.



purposeful sterilization of sexual relations, inside as well as outside of marriage, is sinful based in part on the magisterial interpretation of Genesis 38:1-10.<sup>33</sup>

### **Union Officials Have Actively Opposed Efforts By the USCCB and Others to Limit the Extent to Which the ACA Promotes Abortion**

As a consequence of Sebelius's odd decision to label surgically- and pharmaceutically-induced infertility and some pharmaceutically-induced abortions as "necessary preventive" care, for-profit employers across the country who pay for some or all of their employees' health insurance and are subject to the ACA are now being forced to cover sterilization and contraception, including abortifacient drugs.

The HHS Mandate, as it is commonly called, has gone through several iterations since it was launched the summer before last. One change has been a delay in implementation for nonprofit, religiously-oriented employers who are covered by the mandate. But as this is written in early spring, 2013, the mandate's narrow exemption for "religious employers" continues to define this term "in a way that -- by the government's own admission -- excludes a wide array of employers who are undeniably religious." Hence, many Catholic hospitals, schools, and charities are likely soon to be required to cover contraception and abortifacient drugs, unless the mandate is successfully challenged in court or the Obama Administration unexpectedly backs down. Moreover, there continues to be "*no exemption or accommodation of any kind whatsoever* [emphasis in the original] covering

conscientiously-opposed individuals, for-profit employers (whether secular or religious), nonprofit employers that are not explicitly religious organizations (even in cases where their objection is religious in nature), insurers, and third-party administrators. Respect for their consciences demands some adequate legal protection, but under the current proposed regulation they have none.<sup>34</sup>

In response to the HHS Mandate, pro-lifers and advocates of religious liberty in Missouri pushed last year for enactment of S.B.749, legislation stipulating that neither employers nor health insurance providers "can be compelled to provide coverage for abortion, contraception, or sterilization, if those items and procedures are contrary to their religious convictions."<sup>35</sup>

From the start, even many supporters of S.B.749 admitted it was unlikely to survive a court challenge as long as the HHS Mandate remained in place. Nevertheless, the Catholic Archdiocese of St. Louis strongly supported the legislation. After Missouri legislators overrode Big Labor Democratic Gov. Jay Nixon's veto and adopted S.B.749 on September 12, 2012, the Archdiocese called the vote "a victory for Catholics, people of all faiths, and more specifically, Missouri citizens who value religious liberty."<sup>36</sup>

<sup>33</sup> See Fr. John Hardon, S.J., "The Catholic Tradition on the Morality of Contraception," Inter Mirifica, 1998, available at the [www.therealpresence.org](http://www.therealpresence.org) web site.

<sup>34</sup> "Notice of Proposed Rulemaking on Preventive Services File Code No. CMS-9968-P," USCCB Office of the General Counsel, March 20, 2013, pp. 2-7.

<sup>35</sup> Joe Ortwerth, "Missouri Legislators Push Override of Nixon Veto of Pro-Life Bill," *LifeNews.com*, September 10, 2012.

<sup>36</sup> Quoted in "Victory for Conscience in the 'Show Me' State," a post on the *Minnesota Catholic Advocacy Network (MNCAT)*, September 2012.

But S.B.749 had been strenuously opposed by the Missouri branch of the AFL-CIO. Union propaganda denounced this legislation, which barred no employers from covering pregnancy preventions and abortions and prevented no employees or other persons from procuring sterilizations, contraceptives or abortifacients with out-of-pocket money or through insurance plans they purchased for themselves, as an “unacceptable erosion of workers’ rights on the jobs.”<sup>37</sup> Union lobbyists helped convince Mr. Nixon to veto S.B.749. Not long after it was adopted over his veto, the Greater Kansas City branch of the AFL-CIO-affiliated Coalition of Labor Union Women filed a federal lawsuit to overturn the law.<sup>38</sup>

### **The State ‘Must Respect and Protect the Divinely Established Rights of the Individual’**

The record recounted above, though far from comprehensive, should suffice to demonstrate that top officers of the AFL-CIO and the CTWF and many of their affiliated unions, as well as of the NEA teacher union, have long been and continue to be actively promoting the redefinition of marriage to include same-sex unions and abortion on demand -- two grave moral evils according to the magisterial teaching of the Catholic Church. Since every U.S. union of substantial size other than the NEA and its subsidiaries is affiliated with either the AFL-CIO or the CTWF, this means every large union in the U.S. is either campaigning for these causes itself or at a minimum is in league with other unions that are.

In order to heed Leo XIII’s admonition not to be “parties to the violation of justice,” Catholic employees should likely resolve not to join the NEA union or any union affiliated with the AFL-CIO or the CTWF. Catholic employees who are currently members of any such unions should likely wish to resign. Theoretically at least, it is possible that a Catholic who supports traditional marriage and opposes abortion could still materially cooperate with union officials who are battling the Church on these grave matters. But this could only be so if the Catholic employee had a sufficient reason for joining the union to permit the evil effects that he or she does not condone. In practice, it is hard to imagine under what circumstances that might be the case.

Unfortunately, federal labor statutes and many state laws patterned after them hinder Catholic employees from following their consciences. For example, Section 8(a)(3) of the National Labor Relations Act (NLRA) authorizes every unionized employer to make “an agreement with a labor organization . . . to require as a condition of employment membership therein . . .” On its face, this statute and the federal Railway Labor Act (RLA), as amended in 1951, force Catholic and other religious employees to choose between joining “associations in which their religion will be exposed to peril,”<sup>39</sup> or being fired from their jobs.

Fortunately, public labor policy is not quite as hostile to the religious liberty of employees as such apparently plain language in the NLRA and the RLA would indicate. But it falls far short of what the American bishops regarded as necessary for just laws in a September 1919 pastoral letter. The state, wrote the bishops,

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<sup>37</sup> Jason Rosenbaum, “AFL-CIO Urges Nixon to Veto Contraception, Sterilization and Abortion Coverage Bill,” *St. Louis Beacon*, June 13, 2012.

<sup>38</sup> “Kansas City, MO CLUW Chapter Files Lawsuit,” posted on the [www.cluw.org](http://www.cluw.org) web site, November 21, 2012.

<sup>39</sup> *Rerum Novarum*, Paragraph 54.

must respect and protect the divinely established rights of the individual and the family. It must safeguard the liberty of all, so that none shall encroach upon the rights of others. But it may not rightfully hinder the citizen in the discharge of his conscientious obligation; and much less in the performance of duties which he owes to God.<sup>40</sup>

Current federal labor policy wrongfully “hinders” employees in the discharge of their “conscientious obligations” by trampling their freedom not to associate with a union. The harm would be even greater were it not for three mitigating factors.

### **Even When the Equal Employment Opportunity Commission Finds Union Bosses Have Violated a Worker’s Religious Rights, It Has the Option to ‘Do Nothing’**

First of all, 24 states have passed Right to Work laws protecting each employee’s freedom to get and hold a job regardless of union affiliation or nonaffiliation. Private- and public-sector employees who are covered by Right to Work laws may not be fired for refusal to join or pay dues or fees to a union, regardless of their reasons. In its 1949 decision in *Algoma Plywood & Veneer Co. v Wisconsin Employment Relations Board* (336 U.S. 301), the U.S. Supreme Court found that the original NLRA of 1935 did not preempt states’ prerogative to adopt Right to Work laws. And in Section 14(b) of the NLRA amendments adopted by Congress in 1947 that are commonly referred to as the Taft-Hartley Act, states’ freedom to prohibit compulsory union membership is explicitly recognized.

Employees of all faiths “who have religious objections to joining a union and are covered” by a state Right to Work law are “completely free to follow their conscience.”<sup>41</sup>

For the majority of employees who do not currently benefit from a Right to Work law, a series of federal judicial precedents argued and won by attorneys for the National Right to Work Legal Defense Foundation over the course of the past four decades may potentially furnish partial protection for religious objectors. U.S. Supreme Court decisions such as its 1977 ruling in *Abood v. Detroit Board of Education* (431 U.S. 209), its 1984 ruling in *Ellis v. BRAC* (466 U.S. 435), and its 1988 ruling in *Communications Workers v. Beck* (487 U.S. 735) establish “the right of all employees (not just religious objectors) to resign from a union and pay only a limited agency fee to the union”:

This limited agency fee is the employee’s pro rata share of the union’s collective bargaining expenses. It is certainly possible that the offending union activity is not a collective bargaining expense [citation omitted], or that the net reduction in the amount paid to the union frees the employee’s conscience about funding certain activities.<sup>42</sup>

However, the very limited degree of disassociation from a pro-marriage redefinition and/or pro-abortion union that is provided for under *Abood*, *Ellis*, *Beck* and other such court decisions hardly constitutes adequate government protection for Catholics and others who share their religious beliefs on

<sup>40</sup> Quoted by Edward B. McLean in his book *Roman Catholicism and the Right to Work*, University Press of America, Lanham, Md., 1985, pp. 89-90.

<sup>41</sup> Bruce N. Cameron, “Union Dues and Religious Do Nots: An Employee’s Guide,” National Right to Work Legal Defense Foundation, Springfield, Va., 1999 edition, p. 19.

<sup>42</sup> *Ibid.*, pp. 18-19.

these matters. It is the duty of the government to respect the freedom of such believers to refuse to give any financial support whatsoever to a union that is promoting what the Catholic Church teaches them at all times, “whether convenient or inconvenient,” are serious moral evils.<sup>43</sup>

In some cases, Title VII of the Civil Rights Act of 1964 may be used by employees subject to compulsory unionism to safeguard their religious freedom. Title VII states, in part, that it is unlawful for an employer “to fail or refuse to hire or to discharge any individual . . . because of such individual’s . . . religion . . . .” And federal courts have repeatedly found (often in cases argued and won by Foundation attorneys) that certain employees who are under compulsory-unionism contracts, but oppose, for reasons of religious faith, paying any dues or fees to the union bargaining agent, must be accommodated.

Specifically, in multiple cases courts have accepted religious objectors’ request that they be allowed to keep their jobs while paying all of their compulsory union dues to a nonreligious charity, deemed acceptable by the union, rather than to the union itself.

However, Title VII as currently interpreted also provides union officials and employers with several ways to avoid accommodating employees’ religious beliefs. For example, there is what is known as the “undue hardship” defense:

The law releases the union and employer from accommodating your religious beliefs if the accommodation would create an “undue hardship” for them. Unfortunately, the Supreme Court has decided that “undue hardship” should be interpreted to mean a minimal cost [citation omitted].<sup>44</sup>

Moreover, even if the Equal Employment Opportunity Commission (EEOC), the federal agency charged with investigating alleged Title VII violations, decides your claim of religious discrimination has merit, it has the discretion to do nothing. The EEOC “is not required to go to court to enforce its decision in your favor.”<sup>45</sup>

### **‘Man’s Personal Dignity Requires ...That He Enjoy Freedom and Be Able to Make Up His Own Mind When He Acts’**

Careful analysis and reflection show that neither restrictions on the permissible expenditures of compulsory union dues nor Title VII accommodations offer adequate protection for employees who are seeking to live as faithful Catholics while earning a living for themselves and their families.

To cease hindering citizens in the discharge of their “conscientious obligations” and in the duties they “owe to God,” governments at all levels must simply stop authorizing the termination of employees for refusal to join or pay dues or fees to any labor organization.

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<sup>43</sup> 2 Timothy 4:2, NAB translation

<sup>44</sup> See Footnote 41, p. 11.

<sup>45</sup> *Ibid.*, p. 17.

Legislation and laws that equally protect the individual employee's freedom to associate or not associate with a union recognize a central truth clearly stated by Pope John XXIII in his 1963 encyclical *Pacem in Terris*: "There is nothing human about a society that is welded together by force."

We can often act morally in concert with others, but only if each of us retains the personal freedom to withdraw from the collaborative effort if our informed conscience tells us to. The pope explained:

Man's personal dignity requires . . . that he enjoy freedom and be able to make up his own mind when he acts. In his association with his fellows, therefore, there is every reason why his recognition of rights, observance of duties, and many-sided collaboration with other men, should be primarily a matter of his own personal decision. Each man should act on his own initiative, conviction, and sense of responsibility, not under the constant pressure of external coercion or enticement.<sup>46</sup>

# # #

Nothing here is to be construed as an attempt to aid or hinder the passage of any bill before Congress or any state legislature.

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<sup>46</sup> For the quote from *Pacem in Terris* as it appears here see Footnote 10, pp. 68-69.