to protect a firefighter, other than to quote Fire Chief Edward Croker, who was with the New York Fire Department almost 100 years ago. Here is what he said:

I have no ambition in this world but one, and that is to be a fireman . . . Our proudest moment is to save lives. Under the impulse of such thoughts, the nobility of the occupation thrills us and stimulates us to deeds of daring, even of supreme sacrifice.

This is as we learned from South Carolina last week upon the death of those nine firefighters. We will keep an eye on this blaze and give the States of California and Nevada—the blaze is burning on the California side at this time—give the States of California and Nevada all the resources we can help them with.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EMPLOYEE FREE CHOICE ACT OF 2007—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed on H.R. 800, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to H.R. 800, an act to amend the National Labor Relations 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.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 7 p.m. shall be equally divided between the Senator from Massachusetts, Mr. KENNEDY, and the Senator from Wyoming, Mr. ENZI, or their designees.

Who yields time?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, over the period of these last few days, we have had a number of our colleagues on this side who have spoken, and spoken very well, about the Employee Free Choice Act. We have had Senator DURBIN, Senator BROWN, Senator CLINTON, Senator SCHUMER, Senator MURRAY, Senator LAUTENBERG, Senator MENENDEZ, Senator KLOBUCHAR, Senator WEBB, Senator CASEY. I have spoken myself. We have a number of additional Senators. I see my friend from Maryland, Senator CARDIN, will be addressing the issue this afternoon.

I think we have had some excellent presentations about this issue and about the importance of this issue, about the fact that there are about 60 million men and women across this country who wish to be able to participate in the trade union movement, but because of the realities of the current election process are denied the opportunity to do so.

There are millions of people across this Nation who are enormously concerned about the growing disparity which has taken place in this country between the explosion of wealth in terms of the top one-tenth of 1 percent of our population and the fact that those at the lower end of the economic ladder most recently had to wait 10 years to get an increase in the minimum wage.

I can remember going back to a period of time when the increase in the minimum wage was a bipartisan event. People understood at that time they were trying to make the minimum wage about half of what the overall national wage was going to be, to say to American workers: If you worked at the lower end of the economic ladder in our economic system, we still appreciated your work and you would not have to live in poverty here in the United States of America.

We have in recent years seen where millions of our fellow citizens have had to live in poverty because we have failed to get the increases in the minimum wage. It has become a more partisan issue here in the Senate and also in the House of Representatives, regretfully. I am basically suggesting that we are seeing America growing apart. That is a matter of enormous concern to Americans everywhere. It does not have to be this way. It was not this way when I think America was at its best. It was not this way.

What we are seeing now is the increasing factor that those who have the resources and have the wealth and have the superwealth are accumulating it more and more; those who are at the lowest end are falling farther and farther behind, and the great middle class that is represented by workers and used to be the trade union movement is being constantly challenged.

For many in that middle class, they feel they are slipping farther and farther behind, and they are slipping farther and farther behind. They were not slipping farther and farther behind when we had a strong trade union movement. They weren't. They were moving ahead with the rest of the country. But now, they are falling farther and farther and farther behind. They know that. The option before the Senate now is to at least give American workers an opportunity, if they so desire, to be able to participate in a union so that their economic interests, their health insurance interests, a decent retirement, can be addressed, because as we have seen, working families, increasing numbers of those working families, are losing health insurance, are finding their deductibles and copays are on the rise, and it is getting more and more difficult for them to continue to afford this. An increasing number of retirees, who thought they had commitments to health insurance, are being dropped. We are finding an increasing number of those Americans who rely on a defined benefit system losing out on their pensions.

We are finding out that the costs across the spectrum for working families are going up through the roof—the price of gasoline, the price of health care, the price of prescription drugs, the price of tuition, the price of any kind of retirement income.

Books have been written about this great shift from the kind of common responsibilities and common involvement Americans had with each other, commitments we had with each other, to a different perspective and a different paradigm where everyone is sort of effectively on their own.

That means you are on your own with regard to retirement, health insurance, and education in the workplace. That is happening increasingly. You are on your own when the employer won't give you a raise. You are on your own when you are put in working conditions which may very well jeopardize your health.

I wish to review exactly where we have come as a country on the issue of growing apart and growing together. Most of us remember clearly the Mayflower compact that was signed a few miles off Provincetown, MA, when extraordinary men and women had sailed the seas to escape religious persecution and, after 6 long weeks and the loss of a number of those who had set sail on the ships, before they got off the ship, they gathered on the deck and made a compact between each other about the importance of working together for the common good as a community and as a society. The Federal Constitution talks about the general welfare and about moving ahead together as a country and a society. We have seen that when America has been at its best.

Here we have a chart that shows the years 1947 to 1973. It is titled ''A Rising Tide Lifts All Boats.'' What this chart shows is income for five different sectors of our economy—this is from the Economic Policy Institute—the lowest 20 percent, the second 20 percent, the middle, fourth, and top 20 percent. This chart shows clearly from these colors that from 1947 to 1973, America's income moved along together. Those in the lowest sector of our economic society moved along. As a matter of fact, they moved along a little higher than those at the very top. But America was moving along together.

It is interesting that this is a period of time when we had the trade union

movement at its peak. One of their strong themes during that time was economic fairness, economic justice. If we were going to see an increase in productivity as a result of their own enterprise and working with the employer, the benefits were going to be shared. It was going to be shared between those at the top and those who were working. That was the concept we had seen reflected in this growth from 1947 to 1973.

Look at what is beginning to happen from 1973 to 2000. We begin to see now the lowest is growing the least and the top 20 percent is growing at a rate of three or four times higher than the lowest. This was the beginning of significant tax cuts that benefited the wealthiest individuals. We see the economic indicators reflected here in the income for those individuals across the board.

Now look at what has happened in the most recent time. We see that those in the lowest economic income have been falling further and further behind, and those in the top 1 percent have been going further and further ahead. All of this is going on at a time when we have seen the weakening of the trade union movement.

How is this reflected in what has happened with corporate profits? Here we see at the same time corporate profits were going up some 84 percent at the time from 2001 to 2007, where wages and salaries have been virtually stagnant. They haven't moved. They have gone up a total of 4 percent over this 6-year period. The profits have been growing; wages and salaries have not been growing. Benefits are going up in terms of corporate profits, but the workers' are not. We have seen what has happened.

This chart is interesting. It tells the story of what I have just mentioned in a different way. For the first time, young men make less than their fathers did. We have grown up in this country believing that the future generation was going to have a better opportunity and a more hopeful future than the current generation. Those certainly were the hopes and dreams of those who came to this Nation. It has been certainly generally true, right? Wrong. We saw that was true from 1964 to 1994, the purple colors reflecting the son; the green, the father. We talk about income. You see that the son's income exceeded the father's. Now look from 1974 to 2004. There has been a 12-percent decline of the son over the father—again, the decline in the voice to speak for workers, the strong voice that is going to speak for workers.

Now look at what happened again, if we can go back. Remember the first chart where I talked about 1947 to 1962 when all of the different economic groups went along and went up together. This is the time of peak union membership. What this chart shows is that wages and productivity rise together. What does this chart show? It shows right along here increasing productivity. That means the workplace is becoming more productive. They are producing more. What happened when we had the height of the trade union movement during this time, we found out wages were keeping up with productivity; therefore, workers were working harder, but they were getting more in terms of wages. They were keeping pace with their increasing productivity. Now we see the unions begin to decline, and the workers are falling further behind. Productivity is still going up, but real wages are in decline and productivity grew more than 200 percent more than wages, reflected in that earlier chart which showed the profits going up.

All this is at an interesting time where the workers' voice in the workplace is being constantly diminished. On the far left, we find peak union membership; wages and productivity rise together.

Now you can ask: What happened after 1966? Why this sudden disparity? How could it be doing so well with union membership during this period and then suddenly we find a decline? Well, we had decisions made by the National Labor Relations Board and the Supreme Court that decided businesses can veto majority signups as a result of elections. I will go through that in more detail. But they have it as an art at the present time where an election can be held, let the workers make a judgment, a majority can say: We want to join a union, and next you know that those individuals who are involved in that activity are being fired, lose their jobs, are out of jobs—not just for 1 month or 2 months, not just for 6 months, not even for 1 year, sometimes 3, 4, 5 years. It is the cost of doing business. A whole industry has grown up to help employers defeat the voices of workers in the workplace. That is what happened during this period of time in the 1960s and 1970s. We had our Republican friends appointing members to the National Labor Relations Board during this period of time—also the Supreme Court—who made these judgments to disadvantage workers. We have seen the abuses skyrocket.

This chart is from a Peter Hart Research Associates poll from a year ago. It shows that 58 percent of nonmanagement workers would vote for union representation. This represents 60 million workers who want to join. We can ask ourselves: If they want to join, why don't they join? Let me point out, before we get there, what else has been happening in the workplace.

We find there have also been assaults on unemployment insurance. This is the fund for when we have extended unemployment periods. This is an unemployment insurance fund which is paid into by workers so they will be able to receive it when they are unemployed. It has been generally used historically in times when we have had a downturn in the economy. But we have had administrations which have refused to extend the unemployment insurance, even though the fund itself is in surplus, to look out for the workers. We have seen 6 million individuals who qualified for overtime who were workers 3 years ago lose their overtime pay. We saw the results of administration action in Hurricane Katrina where they refused to extend the Davis-Bacon provisions. We have the undermining of family and medical leave. We have had Supreme Court judgments and decisions which have also compromised the worker.

One of the most notorious was the Supreme Court decision that was made probably 4 weeks ago where a woman who had been working in a plant for a number of years and had been working alongside a number of men for all these years found out she was being paid significantly less than the men. That is unfair under legislation we have passed in the Civil Rights Act. When the case finally went up to the Supreme Court, the Supreme Court said: Well, it is too bad that has been her case because under the legislation, she should have complained in the first 180 days. Since she didn't complain in that time, she lost all her rights.

That is the most cockamamie decision I have heard of the Supreme Court making in recent years. I can give you another one, the Grove City case on civil rights, but imagine this individual didn't even know she wasn't being paid fairly. She had no notice of it. The payroll was being kept by the employer. This is what is happening in real America.

We all know what happened with carpal tunnel syndrome. We had rules and regulations under the previous administration. More than a million people, most of them women, are doing the kind of repetitive work which endangers their health. We had the National Academy of Science make determinations that these individuals, by and large women, are being harmed by this kind of activity. We had the previous Democratic administration issue rules and regulations to provide protections and, and bam, under this administration, under the current administration, the Bush administration, they have been eliminated, all of them.

So we see the series: elimination of overtime pay, elimination of protecting people in terms of pay on the job, eliminating rules and regulations to protect people from carpal tunnel syndrome—all of these going on at the same time. They are the kinds of situations the trade union movement speaks about and fights about. They fight for an individual member who is being abused like the woman being abused in the workforce. They have been a principal spokes-group for the protection of people doing repetitive work and being affected by carpal tunnel syndrome. But they have been weakened, their voice has been weakened. As a result, we see the great economic disparities, and we see the great threat to the workers.

Now, you can say: Well, that is very interesting, Senator, but what are

these kinds of barriers to workers, if they have an election and they are successful? Well, here are some of the roadblocks. Workers who lead the union efforts are fired. We have 30,000 a year who get backpay. Mr. President, 30,000 a year get backpay from employers for violations of their rights. What kind of message do you think that sends to other workers who have to provide for their children and their family, seeing the individuals dismissed or their rights violated?

The employer challenges the election results. No matter what the disparity, they still challenge it and delay it. Then the employer appeals the NLRB ruling in the courts. I might, later on this afternoon, go over some of the court decisions as to the National Labor Relations Board and how they have changed from protecting the worker to protecting the employer and how the DC court—because the DC court is the special court of jurisdiction—how they have altered and changed in terms of protecting the workers. But the workers, effectively, are not getting protection either from the National Labor Relations Board, which was set up to protect them, or in the courts, which are supposed to be protecting their interests.

The employer stalls or refuses to bargain for a first contract. They are able to kick this over for a year. The employer can seek to stop recognizing the union. Then the workers start all over again.

This is what we have: The employees are fired in one-quarter of all private sector union-organizing campaigns—one-quarter of the campaigns. Talk about discouraging those who want to speak up. One in five workers who openly advocate for a union during an election campaign is fired. This has not varied or changed. You would have thought the Department of Labor or the National Labor Relations Board or the courts would try to protect these workers. Oh no, they have not, and we have the current situation we have.

In 2005, over 30,000 workers received backpay after employers had violated their rights. This gives you an idea of the warfare that is going on in the workplace—absolute warfare. Can we do something about it? Yes. That is what the legislation which is before us is trying to do. That is exactly the issue this legislation is trying to face. We will explain that. But that is exactly the point.

We see why some 60 million workers want to join unions. This chart demonstrates the percentage of wages for union members over nonunion members. This next chart is very interesting because it draws the distinction, the effect of union organizing for women. It makes a very significant difference in protecting women and women's rights, for African Americans, and Latino Americans. It is a very major force and factor in terms of making sure we are going to protect the rights and the civil rights of our fellow citizens.

This chart gives you a pretty clear idea. This is what we are talking about: people with wages that are $22,000, $23,000, $17,000, or $18,000. These are the people we are talking about. We are talking about, as demonstrated on this chart, that the cashier, if they do not belong to a union, is making $15,000; if they do, they are making $24,000. For childcare workers, if they are nonunion, they are making probably $16,000; if they are a union member, they are probably making $21,000. And we have demonstrated on the chart the wages for a cook, a housekeeper, across the board.

Look at the Federal poverty line on the chart. Those who are not a part of the union movement are below the poverty line, and those who are members of a union are slightly above it.

So let me point out what we are attempting to do. We are saying we want to give individuals the opportunity to be able to join unions through a card check, effectively. If a majority of those in a union are going to check the card, they are going to be a majority, and they have the opportunity to do so. But we do not eliminate the secret ballot. We are saying the secret ballot is still available.

Today, the secret ballot is decided, effectively, by the employers. Since the employees are the ones whose interests are at stake, we give them the option to go either through the secret ballot or to be able to do it through a card checkoff.

We have heard a lot on the floor about how the secret ballot in the workplace is comparable to the great American tradition of elections in the United States. But, of course, that is completely untrue. For example, if you take what we call the NLRB—that would be the elections in the workplace—versus a Federal election, in regard to equal access to the media, do we think the workers have equal access with the employer? No, of course not. It is the employer who has all of the access. Now, in a Presidential or a congressional campaign, there is relatively equal access. Maybe one candidate is able to get additional kinds of resources and able to get more of the media, but at least there is some degree of fairness and some degree of comparability. But here it is all one-sided, all with the employer. The freedom of speech is with the employer.

Access to the voters: No union members can come onto a grounds and say: Look, we would like to talk to these individuals who are trying to make up their mind. But the employer has access to these individuals all day long.

Campaign finance regulations: The employer spends whatever they wish on these issues.

The timely implementation of the voters' will: The federal elections all have them but not here. As we have just pointed out, employers contest the elections.

The way these elections are conducted now in the workplace, the odds are all stacked against the workers. So the workers have been discouraged from doing so, from being able to express themselves. As a result, they have not been able to move ahead. As a result, they have fallen further and further behind.

Now, we also hear on the floor: Well, we can't have this kind of a checkoff because we will have intimidation of these workers in a certain way, we will have intimidation for those in the workplace. Well, the fact remains there are very strong laws against any kind of intimidation or coercion of workers. We can go through that in greater detail, which I am glad to do.

I know some opponents on the other side have cited a study by the Human Resource Policy Association that identified 113 NLRB cases that involved union deception or coercion. Over the last 60 years, one expert—who testified at the House hearing of the employee free choice legislation—who examined the cases found they contained only 42 such instances. We should not have any, but they had 42. In any event, those 113 claimed examples of coercing or intimidating workers over the past 60 years are next to nothing compared to the NLRB statistics that show acts of coercion alleged in a single year, which, in 2005, equaled about 30,000 workers getting backpay for firings or violations of their rights who were involved in union activity—firing them, throwing them out of their jobs or otherwise violating their rights.

So experience has shown, too, that when the majority signup replaces the battlefield mentality of the National Labor Relations Board election process, conflict is minimized and the workplace becomes more cooperative and productive—a win for both sides.

I might mention that this chart shows Cingular Wireless, and this one shows Kaiser Permanente. They provide for what is permitted under this bill. Of course, if the company wants to do it, it can do it now. It can do it today. But this will institutionalize it to encourage companies all over the country to do it.

Here is Kaiser Permanente, a well-known company. Mr. President, 800 nurses were able to choose a union based on the model of the Employee Free Choice Act. Kaiser Permanente proves that respecting workers' desire to have a voice on the job, rather than fighting the unions, is not only the right thing to do, but it makes good business sense. Says the president of Kaiser Permanente:

> We not only believe it's the fair thing to do, but we also believe it's the right thing to do for our employees, our health plan members, and also our business. It has been their experience.

This is Cingular Wireless. A majority signed up. This is what one of the workers, Larry Barrett, said:

> Management didn't pressure us or try to interfere. . . . We didn't attack the company and they didn't attack us. We were focused on improving our jobs and making Cingular a better place to work.

This is what the executive vice president of Cingular said:

We believe that the employees should have a choice. . . . Making that choice available to them results . . . in employees who are engaged in the business and who will have a passion for their customers.

We can either do it right or we can do it wrong. That is what this is really all about. It is permitting, on a voluntary basis, the opportunity to be able to permit workers to make a judgment and a decision as to who can be their voice and representative in terms of their economic conditions, their work conditions, their retirement conditions, their health conditions, and the rest. If they want to so do it, let's let them do it. If they do not want to do it, let them make that judgment and choice. But today, the system is effectively broken. It is unworkable. The workers know it. The employers know it. Too many of the employers want to keep it that way.

We have an opportunity to provide some real democratization in the workplace. When we do that and we have workers who can have a voice in determining their economic future, their future in terms of other issues, we are going to have a stronger economy. It is going to be stronger in dealing with our competition around the world, and we are going to have increasing productivity.

I know there are those who say: Well, if we have a weaker trade union movement, we are going to have a stronger economy. I will just show the example of Ireland. Ireland has one of the strongest economies in all of Western Europe at the present time, and 35 percent of their workers are union members, as compared to 12 percent in the United States. Look at the economic growth of Ireland, which is at 6 percent; the United States is at 3.3 percent.

So I am hopeful the Senate will at least give us a chance to move ahead on this legislation. The time to act is now. This legislation will make a major difference in terms of our ability to deal with the challenges of a stronger economy, a fairer economy, an economy where workers have a voice as well as a vote. It is the right thing to do, and now is the time to do it.

Mr. President, I withhold the remainder of my time.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. MCCONNELL are printed in today's RECORD under ''Morning Business.'')

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. MCCONNELL. Mr. President, more than three centuries ago, settlers in the New World began to put into practice the political ideals that brought them here and for which many of their descendants would later fight and die.

One of the most important of these was the ideal of political freedom, and one the most concrete expressions of it was the right to vote in secret, without harassment and without coercion. Rejecting the English Parliamentary tradition, several colonies, including all the New England colonies, established secret elections as the norm.

The secret ballot has been standard everywhere else in this country for more than a century. It simply hasn't been questioned. Americans have come to assume that in everything from electing their high school yearbook editor to their President, their vote is sacred and it is secret.

That is, until now. The so-called ''Employee Free Choice Act'' is an assault on the centuries-old practice of secret voting, and the fact that we are here in this Chamber discussing it at all is a scandal.

The Employee Free Choice Act was not written to help employees. It was written to help union bosses, who are angry because their membership has been plunging for decades.

This bill aims to reverse that trend by stripping workers of the right to vote privately for or against a union. They'd be forced to publicly sign a card instead, exposing them to coercion and intimidation by employers and union bosses alike.

When union bosses convince more than half the employees at a work site to sign a card authorizing a union, they will be free to organize.

Meanwhile, employers would be free to check whether their workers favor labor or management.

Look, Congress settled this issue 60 years ago when it amended the National Labor Relations Act to provide secret ballots at the workplace. Congress changed the existing law then precisely because of widespread intimidation and coercion at the workplace.

Now our Democratic friends want to strip that right away from 140 million American workers, rolling back the clock 60 years on employee rights and potentially eroding the broader voting rights that generations of Americans have fought to secure for themselves and their children.

This is really a disturbing development. For years, American voters have been able to depend on Democrats to be loud persuasive supporters of voting rights. Their sudden conversion is shocking, but its cause isn't a secret.

Speaking to a union rally on Capitol Hill last week, the distinguished majority leader gave us a clue into the origins of this anti-Democratic bill. Here's what he told the unions that showed up: Democrats are in control of Congress now because of you. You made all the difference—and let me start with two words: thank you.

Well, are we to expect that blowing these folks a kiss at a pep rally was all they wanted? I think not.

The unions haven't been coy about their legislative wish list. And according to the Las Vegas Review Journal: ''The Employee Free Choice Act is at the top of their wish list.''

The Review Journal is calling this a textbook case of payback. Well, for all you civics students out there, you are about to see a textbook example of something else: how this kind of thing backfires when it threatens to undermine something that Americans hold dear, and that is the right to vote without somebody looking over your shoulder.

Historians tell us that once secret ballots gained near-universal acceptance a little over a century ago, the only Western country that didn't continue to observe the practice religiously was the Soviet Union.

Yet even there, communist leaders were careful to maintain at least the formal appearance of secret ballots. An ad that recently appeared in a number of national newspapers illustrates my point. I think I have it here behind me. At least I thought I was going to. I guess I don't.

Leading with the quote; ''There's no reason to subject the workers to an election,'' it asks: ''Who said this?''

We are given three choices: Mahmoud Ahmadinejad, Idi Amin, and American union leader Bruce Raynor. It was Raynor in fact who said that in defense of the Employee Free Choice Act.

No wonder the Communist Party USA endorsed the bill at its national convention in 2005.

It's understandable why my good friends on the other side hoped they could introduce this bill quietly—just slip it in, watch it fail with a whimper, then crow about their support for Big Labor at political rallies.

They knew as well as I do that if voters knew they were looking to roll back a basic protection like the right to vote in secret, they would be in trouble.

The polling data is overwhelmingly on this one: Nine out of ten Americans—including 91 percent of Democrats—favor the right to a federally supervised secret ballot election when deciding whether or not to form a union. The main provision in this bill is about as popular as poison ivy, which is why this was supposed to all be quiet.

Incredibly, my good friend the majority leader has even indicated that he doesn't expect the bill to pass. Last week he was worried that some Republicans who are opposed to the immigration bill would vote for this bill just to delay debate on that one.

He said such a move would be made out of pure spite, which could only mean that he doesn't expect—or want—this bill to go anywhere.

So what are we doing here?

I'll tell you what: we are being told to squeeze in a vote on this anti-Democratic bill between two of the most important pieces of legislation in this Congress, in the hope that it will fail.

Well, it will fail. But not quietly.

Democrats can't put voting rights on the table and expect to get away with it.

So first, Republicans will indeed block this bill.

But we won't be quiet about it. We're not going to forget about it. We will make sure Americans don't forget about it either.

We'll remind our constituents that our friends on the other side didn't mind promoting a bill that would lead to voter intimidation by employers and union bosses.

All but two Democrats in the House passed their version of the bill in March. Apparently they have no problem with union bosses following employees to their cars after work and telling them to vote union.

Apparently they have no problem with these guys following workers home at night and knocking on their doors for a chat.

I am not making this stuff up.

We have read about a case in Louisiana where a worker was forced to seek an arrest warrant for a union boss who showed up at his home eight times trying to get him to sign a unionization petition.

Under this bill, the threat of employer intimidation is just as worrisome. Imagine having to announce in front of the person who writes your review, who sets your bonuses, approves your raises, and controls future promotions that you prefer labor to management.

This is no different than the days when landowners sent their agents into the fields to tell their tenant farmers how to vote in local elections. It was because of practices like these that the first colonists fled to America in the first place.

Another reason Democrats wanted to keep this bill quiet is that so many of them are on record opposing any abridgement to the right to secret ballots.

On the first day of this session, the Senate's Democratic leadership introduced a bill outlining the purpose of U.S. Democracy-building efforts abroad. This Congress' Democratic leadership introduced this bill. Here's what it said:

> It should be the policy of the United States to use instruments of United States influence to support, promote, and strengthen democratic principles, practices, and values, including the right to free, fair, and open elections, secret balloting, and universal suffrage.

Apparently, our good friends on the other side believe the right to a secret ballot is essential for everyone—except the American worker.

Time and again, Democrats have expressed their belief that the right to a secret ballot is sacred in a democracy.

Six years ago, 16 Democrats in the House sent a letter to a group of government officials in Mexico chastising them for even considering a switch away from secret ballots.

They wrote:

> We feel that the secret ballot is absolutely necessary to ensure that workers are not intimidated into voting for a union they might not otherwise choose.

Support for the secret ballot in the Senate has been just as passionate. My good friend the senior Senator from Vermont has called it ''one of the great hallmarks of this Democracy. ''

The senior Senator from Connecticut has referred to ''the sanctity'' of a private ballot.

The junior Senator from Iowa went even farther, saying in 2005 that:

> Perhaps what we need is a Constitutional Amendment guaranteeing the right of every citizen of the United States a secret ballot and to have that ballot counted.

Nine out of 10 Americans agree with these Democratic Senators, which is why their party's effort to roll back this right for workers is so alarming, and why it promises to be so alarming to voters next year.

Unions have every reason to be worried about their membership, which has been in steady decline for decades. In 2005, only 12.5 percent of workers nationwide belonged to unions. In the private sector, the figure was even more anemic. It is now less than 8 percent.

But the price of reversing this trend shouldn't be one of the fundamental tenets of a free society, nor should elected officials be complicit in the effort.

According to the Associated Press, organized labor spent some $100 million on get-out-the-vote efforts last year, reaching tens of millions of voters by phone and other means on behalf of labor-backed candidates. Labor PACs contributed $60 million for federal candidates, including $40 million from the AFL–CIO.

According to news reports, Big Labor explicitly traded their endorsements of prospective freshman Democrats last year for the promise that the candidates would later vote in support for the Employee Free Choice Act.

After the election, AFL–CIO's chief John Sweeney told a reporter it was money well spent. Big Labor had a plan when it poured money into the election last year.

Look, you don't need to be John Locke to figure out what's going on here. The unions are losing the game, so they have decided to change the rules.

But the rule they want to change isn't some little provision in the labor code it is a fundamental right that the citizens of this country have enjoyed without interruption for more than a century.

This was bold, it was desperate, and it was stupid.

Republicans will proudly block this bill from becoming law, and we will just as proudly remind people who forced a vote on it in the first place.

Today happens to be the birthday of George Orwell, a great enemy of tyranny who had some harsh things to say about political speech.

Orwell saw how rhetoric was used in his own day to excuse the inexcusable. We now call it doublespeak—or speech that is meant to conceal the actual thought of the person speaking.

I can think of no better example of this than the Employee Free Choice Act.

This bill isn't meant to help employees; it is meant to help unions. It is not about increasing employee choice, but limiting it.

I will vote against it. And I strongly urge—and fully expect—my Republican colleagues to join me.

I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). Who yields time?

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I yield myself such time as may be necessary.

I have been looking at a lot of the charts the other side of the aisle has presented. We are going to have a vote on cloture to proceed to H.R. 800, which is the so-called Employee Free Choice Act. It would be better named the ''lose your secret ballot by intimidation act.''

This legislation attempts the most radical, unacceptable, and unwarranted change in our system of labor-management relations in over 60 years, since Congress passed the Taft-Hartley Act. We have watched the other side of the aisle grasping for ways that this might be justified. We heard about the minimum wage, health insurance, pensions, costs going up, gas, food, and that it is all related to people having a secret ballot. The secret ballot is causing that? That is a stretch—saying that unions cannot organize because they are required to have secret ballot elections. I grant you it is going to be much easier for them if they don't have to have secret ballot elections, and can rely on intimidation.

I was fascinated by the chart on voting that was shown earlier, and the things that are supposedly not available in a union election as opposed to the things that are available to the American public in federal elections. Most of them just are not accurate.

One was ''equal access to media.'' If one side is buying ads, the other can do it, too. You cannot tell me unions don't have money or don't know how to run ads because I have seen them run ads against politicians. They are both free to run ads under current law. Another was ''Freedom of speech.'' I don't know where they allege the National Labor Relations Act takes that away. We have freedom of speech under current law. My favorite category on the chart is ''equal access to voters.'' Under current law, the union gets a list of the home addresses of every single person who works in that business. Now, the employer cannot go to their home, but the union can go to their home, and we've heard some examples of how that works. That is why I call it ''lose your secret ballot by intimidation act.'' If you have half a dozen people show up at your door, some of whom you know and some of whom you

don't know, and they are going to try to persuade you to sign a check card, is that equal access to voters? If you don't let them have a secret ballot afterwards to see if they meant to sign that check card or if they only did so because the intimidators were there, it is simply not fair to the employee.

You have to agree this card checking system is kind of a joke and that it isn't a real election where rights are protected. The National Labor Relations Board watches those very carefully. In fact, they run the election and guarantee a secret ballot to every potential union person who votes.

Despite its cynical and deceptive title, this legislation is not about employees, nor is it about enhancing employee rights. This legislation certainly has nothing to do with free choice either. It is plain and simple; this bill is about unfairly and artificially boosting organized labor's steadily declining membership at the expense of essential employee democratic rights. We need to begin by understanding just how radical a departure this objective is from our longstanding national labor-management policy.

Under our system, the Government's role has never been to guarantee a level of membership for unions, or to change the rules in order to boost a union's membership numbers. The role of Government has been—and should be—to remain neutral with respect to the positions of both organized labor and management. Its most important rule is to guarantee that employees have the maximum freedom possible to make their own choice as to whether they do or do not wish to be represented by a union in their workplace. In short, our system of labor-management relations is based on employee rights, not organized labor rights, and not employer rights, and certainly not on some supposed right to a certain level of membership among private sector employees.

This legislation would turn that national labor policy on its head. It would sacrifice the fundamental democratic rights of working men and women in order to artificially boost union membership levels, increase union bank accounts with employees' dues, and enhance the political leverage of organized labor. That is what such money buys. We saw the results of that last week at some of the rallies put on by this bill's supporters. The speeches given at those rallies offer a real appreciation for that kind of political leverage. They implied that now is the time to pay up. This is a totally unacceptable perversion of our longstanding national labor policy. More important, it is outrageous to even suggest we should sacrifice the democratic rights and freedoms of working men and women to further such an effort.

Despite the radical nature of what is proposed in this legislation, and despite the fact that it would constitute the largest attempt to change basic Federal labor law in more than 60 years, it is telling how the proponents of this legislation have sought to move this bill. In the House, those who opposed this legislation were effectively cut out of the process. Leadership in the House brought this bill to the floor and allowed little opportunity for amendment or debate. Indeed, it was on the floor in that Chamber for only a few hours. Here in the Senate, the proponents now seek to move this legislation outside the regular order. It hasn't been to committee. Even though this bill falls squarely in the jurisdiction of the HELP Committee—Health, Education, Labor, and Pensions—of which I am the ranking member, the proponents of this legislation bypassed the normal committee process and brought this measure directly to the floor. With the committee process comes increased scrutiny and a decreased prospect that legislation would ever move based on rhetoric rather than sound facts and reasoned policy.

There may be those who believe that by short circuiting the committee process, it would be less likely that the public would see the legislation for what it is—that the true dimensions of this devil's bargain would be hidden behind a wall of rhetoric. We cannot and will not let that happen.

Let's briefly look at what the legislation does. For nearly seven decades, millions of employees have decided for themselves, and for their individual workplaces, whether they want a union to become their exclusive legal representative. In the vast majority of instances, this critical decision has been made through the use of the most fundamental institution of our democracy, the private ballot. In a democratic society, nothing is more sacred than the right to vote, and nothing ensures truly free choice more than the use of a private ballot.

The current system provides that the question of union representation in the workplace is determined by a Government-supervised secret ballot process overseen by the NLRB. For over 60 years, the NLRB has conducted tens of thousands of elections involving millions of workers, and has developed and refined complex rules and procedures designed to guarantee that the entire process is fair and regular and free from threats, intimidation, and coercion. It carefully monitors the conduct of all parties to the election process and acts quickly and effectively to remedy any misconduct that interferes with the free choice of employees. Those who understand the National Labor Relations Board's processes know that it conducts union elections in a free and fair manner, as evidenced by the fact that only around 1 percent of all elections are rerun due to misconduct on either side. More recently, in 2005, over 2,300 certification elections were conducted by the National Labor Relations Board. Yet the National Labor Relations Board conducted rerun elections because of misconduct by either the employer or the union in only 19 cases. Yes, that is what they do, they force rerun elections because of misconduct by either the employer or the union. So in 2,300 certification elections in 2005, misconduct by either the employer or union, there were only 19 cases.

The current private ballot election system is not only fair, it actually favors unionization. The win rate by unions in the National Labor Relations Board elections has increased for the last 10 years in a row. This is an unmatched run of electoral success. The win rate for unions in 2005 and 2006 was over 61 percent, again an unmatched record. Contrast this with the fact that during the entire 1980s, the average win rate was below 50 percent. For example, in 1982, unions won less than 45 percent of the time. The same is true for the decade of the 1970s, where unions again averaged losing more than they won. But they didn't ask the heavily Democratic Congress at that time to change the laws. In light of unions' increasing electoral success, and the fact that the legal rules have not changed in 60 years, there is absolutely no basis to claim that a change is warranted, particularly where that change is to strip workers of their rights.

Unions want to now change this carefully developed democratic system into one that is totally one sided, unsupervised, and an invitation to undue pressure, coercion, and even outright intimidation.

Imagine you are a worker at a nonunion facility and you are approached at work by people with whom you must interact day after day, or visited at home by union organizers. Remember, they have all the addresses. Imagine you are repeatedly asked to ''sign up'' for the union and that you are given a sales pitch that may or may not be true. Do you think you might sign just to avoid the hassle, just to get people off your back, just so you don't offend a coworker, or just because you haven't heard both sides? Do you think you might sign up even though your truly free choice would be not to have a union? Think about it: visitors to your own house. Most people would sign for any one of those reasons, and that is exactly why we have private ballot elections.

Beyond assaulting free choice and the right to vote, this bill would gravely damage the freedom of contract that has been a hallmark of our private sector labor-management relations. Our system recognizes the reality that in the workplace, as in other contractual situations, the parties who must live by the contract are the parties who must make the contract. Instead, under this bill, if an agreement was not reached within a mere 90 days, the contract would be placed in the hands of a Government arbitrator who would have the power to determine every detail of the employee-employer relationship. They could determine hours, pay, conditions, benefits, insurance, pensions,

everything. Neither the employees nor the employer could contest this contract, and both would be bound to the terms for 2 years. There would not even be a right for the union members to even vote to approve or disapprove the contract agreement, none at all. That right, which they have under current law, would be taken away, too.

Can you imagine either buying or selling a house and being told that someone from the Government would decide the terms of the sale? And even if you didn't agree, you would be forced to go through with the deal? Whether it is buying a house or negotiating a labor contract, this notion is simply untenable.

Lastly, the bill would substitute a tort-like remedy system for the make-whole remedy system that has served so well since the inception of the National Labor Relations Act. The vast majority of labor-management disputes are voluntarily resolved. A tort-type system, while it would certainly keep the trial lawyers busy, will clog the system with litigation and simply delay the resolution of claims.

The bill seriously infringes on due process and the right to manage a private business through its mandatory injunction provision. This is how that works. If an individual claimed he was terminated because of his union sentiments, the Government would require that he return to work before the merits of his claim are determined. The law already provides that this extraordinary step can be taken in appropriate cases, but it doesn't require it in every case. We should not require that the Government take action based on the presumption that a party is guilty unless proven innocent, except in the rarest of circumstances. We certainly should never make that practice the norm. In a host of other statutes, we quite rightly outlaw all types of employment discrimination. However, in none of those statutes do we presume guilt and require the individuals who merely claim to have been discharged be returned to work before the merits of their claims are determined, and we shouldn't do so here. The law provides for them to be reinstated, but it doesn't require it in every instance.

I am not alone in the view that this legislation is fundamentally flawed, unnecessary, and destructive to employee rights. That view is widely shared with others, as shown by some of the poll numbers that were mentioned earlier. Even union members oppose this bill by a wide majority—80 percent. I suspect that doesn't include union bosses, but it includes union members.

These views were, at one point, shared by my colleagues across the aisle. In 2001, the lead sponsor of this misguided legislation in the House, along with the current House and Senate Members, wrote a letter to the Mexican Government regarding its labor laws in which they noted:

The secret ballot election is absolutely necessary in order to ensure that workers are not intimidated into voting for a union they might not otherwise choose.

Incidentally, that was the chairman of the Labor Committee on the House side. It is simply incomprehensible that my colleagues would lecture foreign governments about the importance of industrial democracy while simultaneously advocating we strip American workers of the same rights.

The signatories of this letter are not the only Members supporting this bill who, previously, consistently upheld the importance of the secret ballot. My colleagues have rightly noted:

One of the most fundamental of all rights that make us uniquely American [is] the right of the secret ballot.

Yes, that was Senator HARKIN. Another colleague said:

The sanctity of a private ballot is so fundamental to our system of elections.

That was Senator DODD.

Second, not only have my Democratic colleagues previously insisted on the necessity of a Government-supervised private ballot, so, too, has organized labor when it has suited their purpose.

In 1998, two of the AFL–CIO's most prominent unions argued to the National Labor Relations Board that the National Labor Relations Board supervised election process ''is a solemn . . . occasion, conducted under safeguards to voluntary choice . . . '' Other means of decisionmaking are ''not comparable to the privacy and independence of the voting booth,'' and the secret ballot election system provides the surest means of avoiding decisions which are ''the result of group pressures and not individual decision.''

I remind both my colleagues and organized labor that such statements are ones of principle that are not to be twisted or abandoned for political expediency. Advocating these positions and supporting this legislation are so inconsistent as to be the height of hypocrisy.

At least some labor organizations are willing to stand for the true preservation of employee rights by directly opposing this legislation. Last Thursday, the Fraternal Order of Police, an organization of over 300,000 law enforcement professionals, sent an open letter to Senator REID advising of its strong opposition to H.R. 800. In its letter, the Fraternal Order of Police noted:

The National Labor Relations Board provides detailed procedures that ensure a fair election, free of fraud, where employees may cast their vote confidentially, without peer pressure or coercion from unions, employers or fellow employees.

The letter concludes by noting:

The only way to guarantee worker protection from coercion and intimidation is through the continued use of a federally supervised private ballot election so that personal decisions about whether or not to join a union remain private.

Third, not only do my colleagues and labor unions agree that the private ballot is the most fair, the most accurate, and the most democratic way to determine employee free choice, and that all other methods are seriously flawed, so, too, do the Federal courts.

I have a chart from the U.S. Supreme Court which, along with every Federal circuit court of appeals, has uniformly and over the course of decades held that the private ballot is the best, most reliable, and most democratic means of determining employees' free choice in the matter of unionization, and that all other methods, most particularly card signing, are inherently flawed and unreliable.

With respect to signed cards, the Supreme Court noted that cards are not only unreliable because of the possibility of threats surrounding their signing, but because they are inherently untrustworthy since they are signed ''in the absence of secrecy and in the natural inclination of most people to avoid stands that appear to be nonconformist and antagonistic to friends and fellow employees.''

With respect to the importance of the private ballot, one Federal court of appeals put it best when it observed that its preservation mattered ''simply because the integrity and confidentiality of secret voting is at the heart of a democratic society, and this includes industrial democracy as well.''

The long line of those who oppose this legislation and its outrageous assault on the democratic rights of American workers does not end here. I received a letter from a half dozen former members of the National Labor Relations Board regarding this legislation. The National Labor Relations Board is the Federal agency that overseas private sector labor-management relations, and enforces this very statute that this legislation would alter so radically. It supervises the entire secret ballot process under which workers currently make their free choice for or against union representation.

These are the experts in this area of the law who were nominated by both Democratic and Republican Presidents. Here is what they have to say about this grossly misnamed legislation:

We, the undersigned are all former Members of the National Labor Relations Board, and were nominated to serve by both Republican and Democrat Presidents and confirmed by the Senate. In addition, each of us has devoted our respective professional careers to work in the field of labor/management relations. Each of us has carefully reviewed H.R. 800, legislation entitled ''The Employee Free Choice Act''; and, based on that review believe that the legislation is fundamentally flawed and should be rejected by the Senate. We fully agree with the position consistently expressed by the Federal courts and by virtually all experienced practitioners that authorization cards are inherently unreliable indicators of true employee choice. There simply is no more fair, accurate or democratic way to determine an individual's free choice on any matter than through the use of secret ballot election. We are also deeply disturbed by the legislation's binding arbitration provision. This provision would radically change the process of private sector collective-bargaining in the United States and such change is neither required nor beneficial. The success of private sector

collective-bargaining in the United States has long been premised on the traditional precept of contract law that the parties that must live up to a contract are the ones that must make the contract. The legislation would, in our view, do grave damage to the process of collective bargaining in the United States.

Again, I mention that these are both Republican- and Democratic-nominated people to the National Labor Relations Board who were approved by the Senate.

They go on to say:

Lastly, we believe that the remedial provisions contained in the legislation are unnecessary and counter-productive. Since its inception the National Labor Relations Act has provided that individuals who have suffered a loss because of violation of the act be made whole. The act has never made a provision for punitive sanctions. Because of this, the vast majority of claims before the National Labor Relations Board are voluntarily adjusted and fully resolved in a very short amount of time. Were the remedial provisions of H.R. 800 enacted, board litigation would increase dramatically, and the voluntary adjustment of claims that has been a hallmark of the board process would inevitably become a thing of the past. While this might be a boon to trial lawyers, it would result to no benefit to employees whose rights have been violated. Indeed, the sole effect on such employees would be to substantially delay the receipt of compensation to which they may be entitled.

For the reason noted, we would respectfully urge the Senate to reject H.R. 800 or, any other legislation, containing like or similar provisions.

That is signed by Marshall B. Babson, J. Robert Brame, Charles I. Cohen, Dennis M. Devaney, Peter J. Hurtgen, and John N. Raudabaugh.

Let's listen to what our Democratic colleagues have said in their more candid moments, which I quoted earlier. Let's listen to what the Federal courts have consistently told us. Let's listen to what the labor unions honestly believe, and to labor law experts who enforce the NLRA and were nominated by both Democratic and Republican Presidents and confirmed by a bipartisan Senate. Let's hear what they say. Let's listen to what they say. Most of all, let's listen to common sense. Only in a totalitarian country or a society imagined by George Orwell could anyone assert that the Government was going to afford free choice by stripping them of the right to vote by secret ballot.

It is plain to anyone who takes a moment to look that this legislation is not about employee rights, it is not about enhancing free choice, it is a transparent payback to organized labor at the expense of employee rights and employee choice.

I urge my colleagues to flatly reject the notion that we should even further consider this unwarranted and destructive legislation. The Senate, quite frankly, has too many matters of genuine substance and importance to be spending time on legislation that is plainly designed to profit the special interests at the cost of fundamental employee rights. Help me to be sure we do not take away the right to a secret ballot.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield such time as the Senator from Maryland may consume.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. KENNEDY. First, Mr. President, I ask unanimous consent that at 3:15 p.m. the Senate suspend its deliberation of the motion to proceed for the swearing in of the Wyoming Senator, and that any time consumed by that and speeches thereon not be counted against either side in the debate, with Senator SESSION's time delayed accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland.

Mr. CARDIN. Mr. President, first, let me thank my colleague from Massachusetts, Senator KENNEDY, for yielding me this time and for his leadership on behalf of working families and among the poor American workers.

I listened with great interest to the Republican leader talk about the concerns of protecting workers' rights to a secret ballot. He had one complaint. It seems this legislation is lopsided in taking away the right of a secret ballot. The Republican leader then said, well, we are going to not be quiet about this. We are going to talk about this and make sure people understand exactly what this bill does.

What I don't understand, and I think people listening to the debate will not understand and be somewhat confused about, is if you read H.R. 800, you will see the protection for a secret ballot is preserved. It is an option the workers have to be able to have a supervised election. It is still in this law. I think they are going to be more confused because we have a vote tomorrow where we are going to have a chance to bring this bill before this body where we can have a full debate and consider amendments.

Quite frankly, I have heard from a lot of my constituents about this legislation—some for, some against. Workers are concerned about the tactics being used by some employers to prevent unions from being able to collectively bargain. There are worker intimidations, where workers are fired; there are threats made that plants are going to be relocated if they dare choose to be represented by a union; there is propaganda put out by employers that is downright intimidating. Those things do happen and they deny workers the real freedom of choice.

Some employers have expressed concerns about the arbitration provisions in this legislation and about making sure they do preserve an equal opportunity to be able to talk to their employees. These are matters we can debate, if the Republican leader will allow us to bring this issue to the floor. After all, he said he wanted an open debate on this subject. Let us have an open debate. There are troubling concerns in this country. Nothing is more American than an honest day's pay for an honest day's work. America's great economic strength has been created because of fairness in the workplace, because of collective bargaining, because of the importance of workers in our economy, and effective collective bargaining. But as Senator KENNEDY pointed out a few minutes ago, we have some very troubling economic trends in this country—very troubling.

Real wages for U.S. workers are lower today than they were in 1973, even though productivity has increased by 80 percent. We do pride ourselves that each generation of Americans will live a more prosperous life than in previous generations. That will not be true for a large number of Americans. Today, wages are not keeping up with productivity. There is a problem in the workforce, and it affects all of us in this country. We need to do something about it.

Real median household income in my own State of Maryland has declined by 2.1 percent from 2000 to 2005. We find a widening of the income gap in America, a widening of the wealth gap in America. We should be moving to narrow that gap, not to see it continue to increase. We have a problem we need to deal with, and this legislation, H.R. 800, gives us an opportunity to debate these issues and determine whether the decline of unionization is one of the factors in contributing to these difficult economic trends.

CEOs are now paid 411 times what workers are paid in America—411 times. In 1990, it was bad enough at 107 times—once again, a widening of the gap. I remember when I was in college talking about the strength of America. The strength of America was that in all the western economic powers we had the narrowest gap between wealth and income. Now we have the widest. We need to do something about it. Unionization helps bridge that gap.

What has happened to unionization? In 1973, 24 percent of Maryland workers worked in a company that offered union representation. In 2006, that number dropped to 13 percent.

The United States has exercised international leadership. I listened as my colleagues talked about the letters we have written to other governments. We have been the leader in saying that workers rights is an international human rights issue. It is. America should be exercising leadership internationally on these issues. Some of us have argued on trade legislation that we should be doing a better job in protecting international workers' rights. But it also starts with what we do here at home, and we should be troubled that nationwide only 12 percent of U.S. workers have a union in the workplace. Surveys show that 53 percent want to have unions in the workplace.

I listened again to what the Republican leader said about secret ballots, and I know there is a disconnect here, because, again, this legislation doesn't

get rid of that. What this legislation tries to say is we want workers rights to be adhered to. If the majority wants to have a union, they should be able to have a union without intimidation from the employer. And if the majority does not want to have a union, they should be able to do that without intimidation from the union. Both are true. But in today's workplace, it is not balanced. H.R. 800 gives us the opportunity to debate this issue and, hopefully, act on this matter.

Why do we need this? As I have pointed out, we already have documented examples. Senator KENNEDY pointed out how many back wages have had to be paid because of wrongful firings. We can go through the list, but it is clear it is not effective today—not effectively giving workers a real freedom of choice.

This bill increases the penalties for illegal activities; allows the majority will of employees in joining a union; gives the framework for achieving negotiated contracts. It is a comprehensive bill. It is a bill that deals with more than just one subject, as the Republican leader keeps mentioning. It is a bill that tries to say, let us do a better job so that workers rights are protected in our economy and that workers who want to join a union are able to join that union and those who do not are equally protected.

We will never be able to get into that debate unless 60 Senators join us tomorrow to vote to bring up this issue. As the Republican leader said, this is an issue that shouldn't be kept quiet. Everybody should know where people stand on it. Tomorrow, Senators will have a right to do that by voting to bring this issue forward so we can have this debate in this body and in this Nation.

We should take every opportunity we can to act on behalf of protecting the rights of workers and working families here in this Nation. The statistics tell us we are not doing what is necessary for the growth of our economy. We need to make sure everyone prospers by our economy and we are not doing everything we need to do in that regard. That is why this Senator will vote to allow us to move forward to consider H.R. 800 when this issue is before us tomorrow.

I thank Senator KENNEDY for his leadership over so many years on these issues. He has been truly our leader in trying to speak up for what this Nation should be standing for. We are proud of the economic growth of America. Let us make sure all families can prosper in that growth. Senator KENNEDY has been our champion on those matters.

I urge my colleagues to support the effort to consider this legislation.

Mr. KENNEDY. Mr. President, if the Senator will yield for a question.

Mr. CARDIN. I will be glad to yield.

Mr. KENNEDY. And, Mr. President, I yield myself such time as we might use.

I listened to the very eloquent and persuasive speech of my friend from Maryland, and one of the points he made which I think deserves mentioning is the underlying disparity between the wealth of the Nation, between the very rich and basic workers in the country; and his pointing out that in the 1960s that difference was the narrowest in the greatest economy in the world—which is the United States of America—and now it is the largest between the very wealthy and the neediest people in our society.

I am sure the Senator remembers Henry Ford, who we all understand was the creator, the early entrepreneur of automobiles, and Henry Ford's concept at that time was to have a million people who had $10,000 a year to be able to support selling those cars and begin building the American economy. American workers brought us out of the Depression, fought in World War II, took a nation of close to 16 million men and women who had served in the military, came back, and transitioned again to being the most important economy in the world. Henry Ford understood it was important that there be a million people in America with $10,000.

I am sure he would be perplexed today that we have 10,000 people with more than $1 million. It is an extraordinary kind of irony that we have seen a small number with enormous kinds of wealth at that time in America, which had the strongest economy, as compared to now.

I share the concern the Senator from Maryland has, the direction we are going in, the indicators of where we are going and what is going to happen to that middle class, as the Senator pointed out; what is going to happen as tuitions go up and gasoline goes up, prescription drugs go up, and the pensions and security retirement are threatened, and the laws regarding what happens to workers.

As in Maryland, the same will happen to the workers in Massachusetts. These were always issues that workers and working families felt were important not only to their own families but to their neighborhood's family, their community family, and to the Nation's family. I am wondering if the Senator is not perplexed somewhat about his sense of the individual kind of activity, that we can let every individual sort of take care of themselves. They do not need health insurance; they can survive. They do not need much retirement to somehow be able to survive. They do not need much assurance about the cost of their house because they are going to survive. They are on their own, versus the coming together of a worker who is concerned about the common community and the common good.

I wonder if the Senator would talk a minute or two about how he sees which type of America he thinks is more in tune with our traditions and values.

Mr. CARDIN. Mr. President, I thank Senator KENNEDY for those comments and those questions.

As I said, I was in college during the 1960s, and I did listen to my professors when they talked about the strength of this country, and it was unions that brought us the sensitivity in the workplace to provide health care benefits for people who never had health care insurance, who brought retirement plans for people who didn't have economic security when they retired. We made tremendous progress during the 1960s, the 1970s, and the 1980s as more people got health insurance and as retirement plans were readily available to workers.

When we look at the record today, we find 46 million people without health insurance and we know there has actually been a reduction of employer-provided health benefits in this country. Every year more and more of the cost of health care is being put on the backs of the employees. There has been an erosion of middle-income families being able to afford health care, so many are now forced into bankruptcy because they can't pay for health care bills.

For two-thirds of Americans, when they retire, Social Security is their largest source of income. It was never intended to be that way.

We always thought private retirement would be a major security for people when they retired. We have not met those goals. So we have a shrinking middle class in America, and the middle class is critically important, as Henry Ford said, for the manufacturers and producers and farmers to be able to sell their wares here in America. To have economic strength, you need to have the middle class. You need to have the sharing of wealth among the people of this country, and we do not have that in America today. We are moving in the wrong direction. I think that is what troubles me the most. I know how important a growing middle class is to an economy, to the economic strength of our entire country, so everyone can benefit from this great economy. I agree, we have a great economy. We are the strongest economy in the world. But we have to tend to it, we have to deal with it. Protecting the growth of worker rights will help everyone in our economy, including the owners of our large companies. That is what is so troublesome about this debate. It is not employers versus employees. We want a level playing field. We want companies to grow in America because we want more good jobs in America and we want employees to be able to get fair compensation for their work. That is what this debate should be about.

I thank the Senator from Massachusetts for bringing this issue forward because it really does talk about what type of country we want for our children and our grandchildren.

Mr. KENNEDY. The Senator understands—as we listened to this debate—who brings support for this legislation. The Senator suggested broadly, during his comments, we have civil rights groups supporting the Employee Free Choice Act. Civil rights groups, community, religious, and poverty groups

all support it. Whether it is ACORN, Sierra Club, the Presbyterian Church, public health associations, the Churchwomen United, the Methodists, the Alliance for Retired Americans, the Mexican-American Legal Defense—this is a group, not only of workers, it is a representation of civil rights groups, of women's groups, church groups that talk about the morality and the fairness. They talk about the morality of this issue as well, the fairness of this issue. I think that is what I find so persuasive.

I wonder, if the Senator just had a minute, if he would not agree with me, in the outline of this legislation, that he finds this is an effective summary of the legislation? It requires the employer to recognize the union if a majority of employees sign valid authorization cards. So a majority has to find it. We have heard a lot of talk about expressing the minority and majority views.

It preserves, as the Senator has said, the elections if employees choose to ask for one. The employees, after all, are the ones who are going to be affected by this choice. We hear a lot about free elections. Here, this legislation preserves free elections if the workers want that. It then instructs the NLRB to make clear and fair rules for a majority to sign up to protect workers' rights. Not if you listen to some of the comments and statements on the floor about how radical this proposal is. Does the Senator not agree with me that this is a fairly straightforward proposal to give those workers who are working in a setting the opportunity to express their will as to whether they choose to join a union?

Mr. CARDIN. The Senator is absolutely right. To bring home the reason this is needed today, 53 percent of workers would like to have a union in their employment. Only 12 percent today have union opportunities. The will of the worker today is not being adhered to because of the tactics used by some employers to prevent a fair and open process for employees to choose a union.

Just to underscore one more time, this is allowing the employees to have the freedom of choice. We will never be able to get to a full debate unless we get the opportunity to proceed with this legislation, and that is what this vote is about. I think the point of the Senator is very well taken. This is not taking away private, secret ballots. That is still an option which is available to the employees. But it allows the employees to have a level playing field, which in many cases today is not true.

Mr. KENNEDY. I thank the Senator for an excellent presentation.

I see my colleagues desiring to address the Senate. I withhold.

Mr. CARDIN. Mr. President, I yield the floor.

Mr. ENZI. I yield such time as he desires to the Senator from Arizona.

Mr. KYL. Mr. President, I rise today in opposition to H.R. 800, the Employee Free Choice Act. While the bill's title suggests it would protect an employee's right to join a union, my belief is it would actually jeopardize that right. Actually, I would like to vote for cloture to allow this bill to be debated because I, frankly, think it would be defeated were that to be the case, and I would strongly oppose it. However, I will oppose cloture, not because I wouldn't like to have a debate on the bill but because I want to get to the next item of business before us, which is the immigration bill, which I hope we can complete before July 4.

As to the Employee Free Choice Act, as I think it is rather deceptively titled, it would remove the requirement that elections of union representation and leadership be conducted by secret ballot. The secret ballot, of course, is the ultimate protection for workers because it guarantees anonymity for every worker and protects workers from being submitted to coercion. Opposition to the bill even comes from the hometown newspaper of the bill's author, which notes in an editorial:

> [B]asing representation on whether a majority of signatures has been collected is a bad idea. . . . A worker who refuses to sign, or changes his or her mind and wants to revoke the signature, immediately becomes a target for pressure or retaliation by the union.

That is from an editorial, ''Want a Union? Vote One In,'' the Boston Herald, February 11 of this year.

Currently, if a union has signed cards representing 30 percent of the workers, it can inform the employer, and the employer can either accept unionization or request a secret ballot. The secret ballot must pass a 50-percent threshold among employees for unionization to take effect. What is more fair? That is democracy. That is what this country has been built on. It is how we have operated in this country ever since our inception. The so-called Employee Free Choice Act would remove the option of a secret ballot and allow a majority vote of the signed cards to justify the certification instead.

As someone who was elected to my office by secret ballot, I am hesitant to uproot a process that is a cornerstone of American democracy, as I mentioned, and has proven to work very well. If American voters were forced to choose their Representatives and Senators by being presented with a card and then told to choose in front of the candidate's own staffer, let's say, I think we would dismiss this as nothing more than political thuggery. Why should union representation be anything different? In some cases, union representation affects a person's health care and wages more directly than Congressmen do, so the integrity of these elections is important, and it must be upheld.

Speaking of the American voters, it is interesting to note that, according to recent surveys, 79 percent of voters oppose this so-called Employee Free Choice Act. Further, 89 percent of voters believe a worker's vote on union organization should remain private.

My friend, the Senator from Massachusetts, spoke of fairness and morality and mentioned various organizations. The one I remember was the church of which I am a member, the Presbyterian Church. I am a Presbyterian, and I don't think it is fair to remove the secret ballot, so I am not exactly sure what point that makes. It is best to stick with what has been the cornerstone of American democracy from our inception—the secret ballot; majority rule. It has been common practice for unions and employers for the better part of the 20th century and into this century, and it doesn't seem to me it needs to be changed now, especially with an extreme lack of compelling evidence to indicate that the current process has failed and in view of strong public and union opposition to doing away with the secret ballot. The Employee Free Choice Act crushes employee democracy, eliminates free choice for workers to unionize, and could expose workers to coercion; therefore, it should be defeated.

As I said I will join my colleagues in voting against cloture, not because I fear the debate—I think that would be healthy—but because clearly it is not going to pass. We might as well move on to our next item of business, which is the immigration bill.

I thank the ranking member.

Mr. ENZI. I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I listened to the Senator from Maryland, and I need to clear up some misunderstandings. I hope they are just misunderstandings. He said we should vote for cloture and let us debate. That really was not the intention of the other side of the aisle. If they really wanted us to have a debate, it would have gone through the regular process. This would have gone through the committee on which I am the ranking member, and we would have had a debate in committee. We would have had an opportunity for some amendments, maybe amendments that make the bill actually do what that side of the aisle is saying this bill would do.

I am most upset that they keep saying that under this bill, employees can still get a vote. This bill does not say the employees can get a vote if they want a vote. It simply does not. That is not just me saying it. We had the Congressional Research Service take a look at the bill and see if it requires the National Labor Relations Board to certify a union without any vote—and it does. Not vote. Only if the union sends in cards for only 30 percent of the employees will a vote occur as it does under current law. But the union organizers don't bother trying when they only have 30 percent of the people signed up. It is my understanding they seldom go for a vote unless they have

75 percent of the people signed up, and with 75 percent of the people signed up, in a secret ballot election they still lose 39 percent of the time.

This bill does not guarantee a vote. An employee who prefers to make his choice in a secret ballot election is not entitled to one under this bill. It does not guarantee a vote. That is not just my opinion. The Congressional Research Service, the Library of Congress folks who are dedicated to being impartial when they review bills, agree with me that there is no guarantee for a vote—unless there is only 30 percent of the people who sign up. That has been the rule for a long time.

I wish to point out one more inconsistency—maybe more than one. I really am kind of floored at the list of civil rights groups the other side presented—that those people put their name down as wanting to do away with a secret ballot. I would be no more surprised if they suddenly were for a poll tax.

Here is another little inconsistency in the debate here. There was a comment that there were 30,000 backpay orders for terminations during organizing drives. That is a misstatement. There were 30,000 backpay orders, but the vast majority of these claims have nothing to do with employee terminations during organizing drives. The vast majority of them have to do with bargaining claims and they are with members of already-established unions. For example, in 200, two thirds of the recipients of backpay orders were involved in a single contract interpretation dispute.

Union studies we've heard cited claim that half the employees who are offered reinstatement were illegally terminated during an organizing drive. There is not any basis for that estimate, but even assuming it is true, the number of discharges is very low. For example, in 2000, using the unions' own estimate, there were 600 unlawful terminations. In that same year, over a quarter of a million employees were involved in National Labor Relations secret ballot elections—hardly the 1 in 5 they are claiming; 600 out of a quarter of a million. That is about 1 discharge for every 416 employees. And that figure includes a huge percentage of settled cases in which there was never any finding that the termination was unlawful to begin with.

I have been fascinated by the charts we have seen, many of which—I am not sure what the sources were. We will be checking those and questioning them. But they really didn't have anything to do with taking the right to a secret ballot away from employees.

We have forgotten to mention that I have passed the Workforce Investment Act through this body unanimously on two occasions and then been blocked from having a conference committee with the other end of the building. The Workforce Investment Act would have provided training for 900,000 jobs in this country—900,000 people who could have had a higher wage. How come we are not watching out for those folks? A lot of them would have gone through union apprenticeships. But, no, we are not going to do the Workforce Investment Act. Instead, let's concentrate on taking away the secret ballot.

I have a lot more people coming over to speak on our side, people who really do think there needs to be debate on this issue. I am told that if we want to debate, we ought to vote for the cloture motion. That is interesting because we have already agreed to a unanimous consent request that will keep us from debating that after we vote for it—yes, there is an agreement that we will go to immigration after this vote no matter what the outcome. So there is no intention to debate this bill.

It is very unusual. To me it is a realization by the other side that this bill to take away an employee's right to a secret ballot is not going anywhere.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY Mr. President, I wanted to mention at this time, I know my friend from Iowa, Senator HARKIN, is on his way, so I will speak for just a few moments until he comes about who is affected by this legislation.

We hear these words used around here: ''free and open elections,'' ''nonintimidation,'' ''under the existing program.'' Let me give you a few examples of what is happening in the real world.

Here is Ivo Camilo, a vend pack operator at Blue Diamond Growers. This is from the hearing we had on February 8, 2007. These are his quotes.

> In group captive audience meetings and one-on-one talks, company officials and supervisors threatened we could lose our pensions and the other benefits if the union came in. We told them we knew our rights. Less than a week later I was fired.

This is free and open election that we are talking about. This is the real world where the employer has the power, the power of intimidation.

Then he continues: After they were found guilty and had to rehire me and a coworker, they fired another union supporter. Getting a union shouldn't be so hard.

Here is another person: I thought the laws protected workers. I was wrong.

Jose Guardado, a former meatpacker, Omaha, NE:

> My coworkers and I wanted a union at work to fight back against the dangerous working conditions, the lack of respect, and abusive treatment.

Working conditions are one of the principal concerns that many of these workers have, not only the economic rights but the dangerous working conditions. He continues:

> The company terrified workers for standing up for their rights. They threatened to fire union supporters, threatened to close the plant, brought in a bunch of strange workers on the day of the election, just to get them to vote against the union.
>
> Then they began firing workers who had supported the union. This company took away my livelihood, hurt my family, just to keep us from organizing unions.

This is what was happening in Nebraska.

Here is a nurse who was pulled away—this is important because it is not just working conditions or the economic conditions, but it is the patients, what happens to the patients. Here is Linda Merfeld, Dubuque, IA:

> Fewer and fewer nurses have been taking care of more and more patients. These staffing patterns jeopardize the quality of care of our patients. In 2003, I joined with other nurses to gain a voice on the job. Managers started holding meetings one on one and in small groups with nurses to spread myths and half-truths about forming a union. Not only were these meetings mandatory—mandatory—the employer mandates that these workers show up at the meeting, but the nurses were pulled away from patient care to attend them.

Nurses were pulled away from patient care to attend them. These are these free and open elections that we just heard referenced on the floor of the Senate.

A nurse with 30 years of experience was fired for speaking out about patient care issues. No one should be fired for trying to have a voice in the decisions that affect their jobs and patient care.

I see my friend from Iowa is here. I was just talking about Linda Merfeld from Dubuque, IA, Finley Hospital out there, and how she was dismissed out there. I see the Senator from Iowa here on the Senate floor.

I yield him 10 minutes. I believe at a quarter after 3 there is a previous order. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. So I yield the time until quarter after 3.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. I thank Senator KENNEDY for his great leadership on this issue and so many other issues that pertain to the rights of working families in America.

There is a need for organized labor in our country. When workers join together and act collectively, they can achieve economic gains and worker safety that they would not be able to get if they negotiated individually.

History tells us this: Union members were on the front lines fighting for the 40-hour workweek, paid vacations, minimum wage, employer-provided health insurance and pensions. Organized labor led the way in passing legislation to ensure fair and safe workplaces, and in championing many other safety nets we have such as Social Security, Medicare, and the Family and Medical Leave Act.

But, unfortunately, continued forward progress is not inevitable. We have seen in recent years, as union membership has declined, wages have stagnated, the numbers of uninsured have risen, and private companies have been allowed to default on their pensions threatening the retirement security of millions of Americans.

It is clear to me that in order to rebuild economic security for the middle class in America, we must first rebuild strong and vibrant unions; and to rebuild strong unions, we must first reduce the unfair barriers to union organizing. A recent study by the Institute for America's Future confirms this by comparing organizing campaigns in the United States and Canada. The study found that more worker-friendly certification rules resulted in increased union participation.

But, of course, this is all just common sense. If you reduce the barriers to workers joining unions, more workers will join. What does that mean? Well, as the study made clear, by passing this Employee Free Choice Act, by making it easier for workers to band together, more than 3½ million Americans would be able to secure health coverage, more than 3 million Americans would have access to employer-based pensions.

Middle-class families in this country have an increasingly difficult time making ends meet. More than 47 million lack health insurance, that is including 251,000 Iowans, and even those who get it find it covers less and less. This should not be happening in America. When productivity rises, everyone should see a fair share of the gain. But in the past several years, increasing productivity has gone hand in hand with a growing wage gap.

According to the nonpartisan Congressional Research Service: Adjusted for inflation, average worker pay rose 8 percent from 1995 to 2005; but median CEO pay at the 350 largest firms rose 150 percent over the same period.

In my home State of Iowa, real median household income fell by 3.4 percent between 1995 and 2005, at the same time productivity increased. So workers are working and becoming more productive, but they are not getting any of their fair share.

By passing the Employee Free Choice Act, by giving workers a seat at the table, we can start to reverse this negative trend. Union participation in the workplace means everybody wins. When employees have a voice, not just to ask for better wages and benefits but to make suggestions on how to do things better, employers benefit also.

Union employees take pride in their work and they work to get more training. They are happy to help find other efficiencies in the operation because they know if they do they get a share of the savings.

Unfortunately, the scaremongers out there are trying to tell us that the Employee Free Choice Act takes away employee rights to a secret ballot. Nothing can be further from the truth. This bill does not establish a new election process. It merely requires employers to honor the employee choice.

Right now a company gets to decide whether it will recognize a majority signup vote. Well, why should just the company get to decide that? Why should employees not get to decide that? That is what this bill does. It levels the playing field. It says the employees get to decide as well as the company.

If the employees want to use the National Labor Relations Board process, they can do that also. But we know from hard experience—the best teacher, hard experience—that process can be threatening and intimidating to many employees.

So in addition to making it easier to form a union in the first place, the Employee Free Choice Act provides for arbitration for the first contract. I know from personal experience how a company can bust a union and cause major hardships for their employees.

My brother, Frank, was a member of the UAW for 23 years. He worked at a plant called Delavan in West Des Moines, IA, for 23 years, a proud union member. He had a good job as a machinist, operating machines, made parts for the military, had good pay, good benefits, a good pension.

In 23 years he had only missed 5 days of work. In 23 years the union never went on strike, never had a work stoppage. But then Mr. Delavan, the owner, decided to sell the plant. And he sold it to a group of investors. One of those investors bragged openly—it was in the Des Moines Register—if you want to see how to bust a union, come to Delavan, we will show you how. He openly bragged about it.

What happened? Well, the investors took over. When the union contract came up, the company put forward conditions with which no union could ever agree. So what was the union forced to do? To go out on strike. For the first time ever in 23 years they went out on strike.

Well, then what did the company do? They brought in replacement workers. Then what happened? There was a long bitter strike. I remember it well. After 1 year, as allowed by labor law, they had a decertification vote. Who votes to decertify? Well, the replacement workers. So they voted them out. They did not want to lose their jobs. So they voted to decertify.

So after 23 years, my brother Frank was out of a job. He lost his union job with excellent pay, vacation, pension. Now, I ask you, what does a 54-year-old deaf man—and my brother was deaf. He is disabled. What does a 54-year-old deaf man do when he loses that kind of a job? I will tell you what he did. The only job he could get was as a janitor working in a store at night in a shopping mall—minimum wage, no union, no pension, no benefits, nothing.

This is a real-life story, folks. That happened to my family. Not only did it just destroy my brother's livelihood, it broke his spirit. That is what happens when unions are weakened and destroyed, jeopardizing our middle-class way of life. That is what is happening today, my friends, to tens of millions of workers all over this country.

I will close with this, from a December 2005 letter by 11 Nobel Peace Prize winners:

Even the wealthiest nation in the world, the United States of America, fails to adequately protect workers' rights to form unions and bargain collectively. Millions of U.S. workers lack any legal protection to form unions, and thousands are discriminated against every year for trying to exercise these rights.

It is time to level the playing field and to give them a truly fair process.

CERTIFICATE OF APPOINTMENT AND CREDENTIALS

The VICE PRESIDENT. The Chair lays before the Senate the certificate of appointment of Senator JOHN BARRASSO of the State of Wyoming. Without objection, it will be placed on file and the certificate of appointment will be deemed to have been read.

The certificate of appointment is as follows:

OFFICE OF THE GOVERNOR,
The State of Wyoming.

CERTIFICATE OF APPOINTMENT

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES: This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Wyoming, I, Dave Freudenthal, the Governor of said State, do hereby appoint John Barrasso a Senator from said State to represent said State in the Senate of the United States until the vacancy therein caused by the death of Senator Craig Thomas, is filled by election as provided by law.

Witness: His Excellency our Governor Dave Freudenthal, and our Seal hereto affixed at Cheyenne, Wyoming, this 22nd day of June, in the year of our Lord 2007.

By the Governor:

DAVE FREUDENTHAL,
Governor.

MAX MAXFIELD,
Secretary of State.

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. The Senator will present himself at the desk. The Chair will administer the oath of office as required by the Constitution and prescribed by law.

The Senator, escorted by Mr. ENZI and Mr. Wallop, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the Vice President; and he subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The minority leader is recognized.

Mr. MCCONNELL. Mr. President, let me say briefly a warm welcome to the new Senator from Wyoming, Senator BARRASSO. He has big shoes to fill with our departed colleague Craig Thomas. I am sure he is up to it. Given the average age of this institution, it is certainly good to have another physician in the Senate. An orthopedic surgeon may be particularly useful. I had a chance to meet with the new Senator this morning. He is a bright, capable