

## **The Politics of Austerity and the Conservative Offensive against US Public Sector Unions, 2008-2012**

### **Les politiques d'austérité et l'offensive conservatrice contre les syndicats du secteur public aux États-Unis, 2008-2012**

### **Las políticas de austeridad y la ofensiva conservadora contra los sindicatos del sector público en los Estados Unidos, 2008-2012**

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Article abstract

Since the onset of the Great Recession, anti-union conservatives have been hammering out an arguably bogus yet politically potent argument: collective bargaining with government workers is unaffordable as their wages, health benefits, and pensions are driving states into deficits. Whilst evidence does not support the politically motivated attacks on public sector workers and their unions, a confluence of political-economic factors has been abetting efforts to scapegoat public employees and their unions.

The first section of this essay places the 2011 wave of anti-public-sector-collective-bargaining statutes in its broad political and economic context. Whilst resulting from a longstanding hostility of the USA's conservative movement to unionism and collective bargaining, recent anti-public-sector-collective-bargaining statutes are also the outcome of three political-economic developments galvanising anti-union GOPers—first, the fact that most US union members are now government workers, which makes it easier for anti-unionists to characterize them as a “privileged” elite; second, the Great Recession and ensuing deficit crisis; and third, the rousing of the conservative movement that led to the 2010 electoral “shellacking” of the Democrats. The second section focuses specifically on Wisconsin and argues that what is going on there ought to be seen for what it is: an attempt to exploit the economic crisis to win an eminently political victory over organised labour and allied Democrats.

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# The Politics of Austerity and the Conservative Offensive against US Public Sector Unions, 2008-2012

Étienne Cantin

**Since the onset of the Great Recession, anti-union conservatives have been hammering out an arguably bogus yet politically potent argument: collective bargaining with government workers is unaffordable as their wages, health benefits, and pensions are driving states into deficits. What is going on in Wisconsin and other states ought to be seen for what it is: an attempt to exploit the economic crisis to win an eminently political victory over organized labour and allied Democrats. Even in their weakened state, US unions can mobilize opposition to the anti-government, anti-labour agenda of a Tea Party-shaped Republican Party. It is this capability that Wisconsin Governor Scott Walker and other conservative Republicans are determined to undermine by taking away public-sector workers' rights to organize and bargain collectively.**

**KEYWORDS: Great Recession, deficit crisis, austerity, politics, public sector unions, collective bargaining**

## Introduction

The US is currently enthralled in a heated political debate over whether public-sector workers should be permitted to enjoy, like their private sector counterparts, a statutory right “to self-organization, to form, join, or assist labour organizations to bargain collectively through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection”.<sup>1</sup> Ever since the American conservative movement successfully mobilized, four decades ago, to defeat the drive of public-sector unions and allied Democrats to pass a “Wagner Act for public employ-

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ees”, anti-union voices on the right have struggled to “roll back” public sector collective bargaining and “union control of government”—the same battle being waged today in Wisconsin and other states (Fraser and Freeman, 2011; McCartin, 2008: 140-144; 2011: 48-49; McCartin and Vinel, 2012: 242-251). In February 2011, Wisconsin Governor Scott Walker fired a salvo that continues to reverberate across the US political landscape, proposing a so-called Budget Repair Bill intended *inter alia* to strip most of his state’s public workers of their power and statutory right to bargain collectively over such crucial issues as pay and benefits. As signed into law by Gov. Walker, what eventually became Wisconsin’s Act 10 of March 11, 2011 makes sweeping revisions to the hitherto existing statutes, literally ending collective-bargaining rights for some public employees and diminishing such rights to many other public employees to such an extent that they were effectively ended.<sup>2</sup> Whilst the highly contentious passage of Act 10 was symbolically potent because 52 years earlier Wisconsin had become the first state to pass legislation extending collective bargaining to public workers (McCartin, 2011: 46; Secunda, 2012: 294; Slater, 2004: 158), it was also significant because it was merely the most prominent of a wave of anti-public-sector-collective-bargaining statutes that followed the 2010 mid-term congressional and state elections.

As McCartin (2011: 48) has recently argued, “[e]nemies of public sector unions have waited decades for this moment. The swift rise of the government workers’ union movement took labor opponents by surprise in the 1960s”—as did the passage, by 1962, of the first municipal, state, and federal executive orders and statutes granting limited collective-bargaining rights to public workers, which were all enacted under labour-backed Democratic administrations (cf. Dark, 2001; McCartin, 2006: 79; 2011: 46; Slater, 2004: 179; 2007: 1146-1147). However, conservative counter-mobilization within and beyond the Grand Old Party (GOP) had succeeded, by the mid-1970s, in derailing efforts to pass a national bill—entitled the “National Public Employee Relations Act” (NPERA) by its union and Democratic backers—that would have ensured the right to organize for all state and local workers (McCartin, 2008; 2011: 48).<sup>3</sup> Largely as a result of the defeat of the NPERA, contemporary public-sector labour law is generally set by state and local policies which vary significantly in terms of the rights therein promulgated for government workers. The failure of public-sector unions and allied Democrats to pass national legislation not only meant that government workers’ unions achieved local- and state-level bargaining rights much later (when they did) than their private sector counterparts; but, also, that they would henceforth have to confront a veritable “laboratory” of executive and statutory rules; and, ultimately, that they achieved little bargaining power, if at all, across large, significant stretches of the country—including whole states where, to this

day, public sector collective bargaining rights were never won (cf. Hodges, 2009; Hodges and Warwick, 2012; Malin, Hodges and Slater, 2011: 457-554, 615-674; Slater, 2012a: 190-191; 2012b: 478-479).

The US South has long been hostile territory for both collective bargaining and unionization. Southern states have among the lowest unionization rates in both the public and private sectors, and until recently, the states that expressly prohibited or severely limited collective bargaining for one or more major groups of public employees were located in the South (Hodges, 2009; Hodges and Warwick, 2012; Hogler and Henle, 2011; Kearney, 2010: 96-97). However, since the onset of the Great Recession and, especially, the 2010 elections, the US has experienced a galvanization of conservative Republican opposition to public sector unionism and collective bargaining in other states—including “the tier of Northern industrial states from New Jersey westward where a new cohort of conservative Republican governors [...] put the virtual destruction of public sector unionism [...] at the very top of their legislative agenda” (Lichtenstein, 2011: 527). While the most highly publicized and significant changes have taken place in Wisconsin, radical revisions of public sector labour relations law and policy have been afoot in a number of “heartland”, Midwestern states such as Indiana, Michigan and Ohio, as well as in more than a dozen of Eastern, Southern and Western states. Despite this onslaught, the current assault on the collective bargaining rights of public employees was subdued or defeated in some states and, *thus far*, at the federal level. Still, the recent reforms of public sector labour relations amount to the most radical revisions of labour law in the US in half a century. The general form of the new anti-public-sector-collective-bargaining statutes consists in removing certain types of employees from collective-bargaining coverage and/or to restricting the subjects of bargaining to merely wages—and, even then, with additional restrictions such as imposing “right-to-work” rules abolishing union security provisions (Hogler and Henle, 2011; Malin, 2012; Rachleff, 2012; Slater, 2012a: 203-212).

Although space limitations preclude a historical account and analysis of legislative changes in all the affected states, this essay at least attempts to place the legislative developments in Wisconsin in their broad political and economic context. Its first section describes the broad political-economic context of the 2011 wave of anti-public-sector-collective-bargaining statutes. The legislative attack on public sector unionism that gave rise to a political firestorm in Wisconsin and other union strongholds since the election of 2010 was not just a reaction to the contemporary economic difficulties faced by the government. Rather, it was the result of a longstanding political hostility of the USA’s modern conservative movement to unionism and collective bargaining per se (Lichtenstein and Shermer, 2012; McCartin and Vinel, 2012), and of a series of

political-economic developments which galvanized the efforts of conservative Republicans to turn back the clock to public sector's "pre-collective bargaining era"—viz. the era prior to "the battles for[,] and eventual passage of[,] the first state statute permitting collective bargaining in the public sector in Wisconsin in 1959" (Slater, 2004: 9). The second section of this essay focuses specifically on Wisconsin, although it also briefly enumerates anti-public-sector-collective-bargaining statutes enacted in other states. It argues that what is going on in Wisconsin and other states ought to be seen for what it is: an attempt to exploit the economic crisis, undo legal precedent on labour issues, and win an eminently political victory over organized labour and allied Democrats. Even in their weakened state, US unions can mobilize opposition to the anti-government, anti-labour agenda of a Tea Party-shaped Republican Party. It is this capability that Walker and other conservative Republicans are determined to undermine by taking away public-sector workers' rights to organize and bargain collectively.

### **Broad Political-Economic Context and Literature Review**

Since the onset of the Great Recession, US conservatives have been hammering out an arguably bogus yet politically potent anti-union argument: collective bargaining is unaffordable as the wages, health benefits, and pensions of unionized government workers are driving states into deficits and "bankrupting" America. In making the case for their attacks on public-sector workers' wages, benefits and, in many cases, bargaining and political rights, some conservative publicists, governors, legislators and indeed 2012 presidential candidates have echoed the right-wing press's claim that "America's most privileged class are public union workers" (e.g. Editorial, 2010), argued that they have "become the exploiters" (Pawlenty, 2010), or somewhat less stridently blamed their "overcompensation" and collective-bargaining rights for various economic and budget woes which are "bankrupting" America and/or "corrupting" the Republic (see, e.g. Bush and Gingrich, 2011; Chavez and Gray, 2004; DiSalvo, 2011; Greenhut, 2009; Walker, 2011a, 2011b, 2011c). Conservative efforts to scapegoat public-sector workers' wages and benefits for budgetary woes fly in the face of careful studies showing that public-sector workers are relatively undercompensated via salary and overcompensated via benefits; the net result is that, on balance, they earn slightly less than their private sector counterparts. Conservatives often claim that because public workers are overcompensated, they are a significant cause of state deficits. But the correlation simply is not there. This is in large part because public employees are not, as a matter of fact, overcompensated (cf. Freeman and Han, 2012; Keefe, 2012; Lewin, 2012: 16-18; Slater, 2012a: 202, and the other studies cited therein).

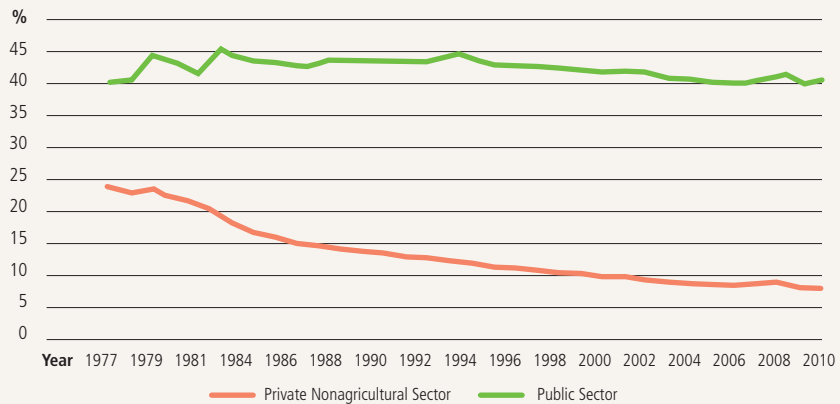
Despite the fact that scientific evidence does not support the politically motivated attacks on public-sector workers and their unions, “a confluence of powerful factors has created a perfect storm that is overriding the facts, abetting efforts to scapegoat public employees and their unions, and making it easier for anti-union opinion makers to use a few outlying cases to drive a larger assault against the very concept of public sector unionism itself” (McCartin, 2011: 46). In next section I shall briefly examine the recent confluence of three developments making public sector unions vulnerable to political attack under the guise of the politics of austerity: first, the fact that most union members have now become government workers, which makes it easier for anti-unionists to characterize public sector unions as “privileged” elites that “plunder” the tax dollars of hard-working Americans while remaining immune from the sacrifices private sector workers are forced to make; second, the impacts of the Wall Street-induced Great Recession and ensuing deficit crisis; and third, the galvanization of the conservative movement that has led to the “shellacking” sustained by the Democrats in 2010.

### **The Private/Public “Divergence” and Other Sources of Public Workers’ Political-Economic Vulnerability**

Over the past decade or so, the anti-union offensive of the contemporary conservative movement has focused on public employees because private sector management has largely won its long struggle against organized labour. As is well understood, the rise of public sector unions in the 1960s and 1970s already coincided with the accelerating decline of private sector unions (Farber, 2005). The diverging fortunes of unionism in the US private and public sectors are clearest in the percentage of workers covered by collective bargaining agreements, which by 2011 stood at 7.6 percent of the total private-sector non-agricultural workforce and 40.7 percent of the total public-sector workforce (Hirsch and Macpherson, 2012). The enormous and widening gulf between private- and public-sector contract coverage (see Figure 1) means that, for the first time in US history, the majority of workers covered by collective bargaining agreements worked for the government by 2009. Historically, the public sector union movement relied on a strong union movement in the private sector to help it legitimize its demands and mobilize political support for them. The long-run decline of private-sector union membership and coverage is now leaving public sector unions newly vulnerable to attack. The stagnation of wages and the erosion of benefits in the private sector have created an opportunity for union opponents to argue that government workers are a “privileged class” who live off of hard-working taxpayers while remaining immune from the sacrifices private sector workers are forced to make (Dark, 2011; McCartin, 2011: 46-47).

FIGURE 1

**Percentage of Workers Covered by Collective Bargaining Agreements, Private Non-Agricultural Workforce vs. Total Public-Sector Workforce**



Source: Hirsch and Macpherson (2012).

As Lichtenstein (2012: 30) has recently explained, the “relative success among public-sector workers in Northern and Western states has been accompanied by a collapse of private sector unionism and, perhaps even more important, the equally dramatic disintegration of the private sector social safety net that non-union workers could once rely upon”. Meanwhile, the conservative GOPers’ anti-union and anti-public-sector-collective-bargaining arguments have increasingly gained traction because “the decline of private sector unionism has [...] distorted the political landscape”. The point is not simply that the enfeeblement of unions in the private sector has increasingly deprived progressive Democratic lawmakers of the powerful support they could count on during the heyday of the labour-liberal Democratic alliance, when unions were “the backbone of American liberalism and a key electoral element making possible those moments of progressive legislative reform” (Lichtenstein, 2011: 513); but, also, that “[l]iberal Republicans are [now] extinct [largely] because there are so few union workers to which they feel constrained to appeal. Indeed, the GOP has declared war on even the most prosaic forms of private sector collective bargaining”, whilst its “rightward lurch” has also been manifest in the way “the libertarian assault on government itself has transformed and hardened their opposition to unionism in the public sector” (Lichtenstein, 2012: 31). Whereas for decades the main conservative critique of public sector unionism had arisen out of the presumptive challenge of public-sector unionism and “compulsory public-sector bargaining” to the sovereignty of the state (McCartin and Vinel, 2012; Petro, 1974), over the past three decades or so “this charge has been turned on its head. Today, the argument goes, public sector unions are too powerful because they sustain a

strong and intrusive state, not because they subvert it” (Lichtenstein, 2012: 31). Indeed, to many Tea Partiers and right-wing GOPers, public-sector unions and collective bargaining *per se* constitute a “conspiracy” against the public and an institutionalized source of “corruption” that increases unnecessarily the demand for government services, at the price of “bankrupting” America.

### **The Great Recession, the Deficit Crisis and the Politics of Austerity**

A second development making the current conjuncture dangerous for public-sector workers is, of course, the onset of the Wall-Street induced Great Recession, to which the US government responded with a substantial deficit-financed stimulus programme to try to prevent the deep downturn from turning into a bottomless depression. Although the stimulus package did help stop downward momentum (Pollin, 2012), it was both too small and too poorly designed to trigger a strong economic upturn, especially given the weak underlying economic trajectory, the fact that the stimulus programme relied too heavily on tax cuts as a means of bolstering private spending, whilst household wealth declined dramatically during the recession, and credit markets were locked up (cf. Brenner, 2009; Crotty, 2012; Pollin, 2012). On the other hand, the Great Recession strained government finances at all levels and, combined with the “Reaganesque budget deficits” (Brenner, 2009: 3) overseen by the Republican administration of George W. Bush and the efforts of the Democratic administration of Barack Obama administration to prevent a depression, created “by far the largest federal budget deficits in peacetime history” (Crotty, 2012: 86). The “root causes” of this deficit crisis are, arguably, “slow growth under the post-Reagan right-wing economic model, the radical deregulation of financial markets that contributed to the recent global financial crisis, endless regressive tax cuts and excessive defence spending on wars of choice” (Crotty, 2012: 81, 86-91). Rather than address these, the deficit hawks of the hard Republican right have pounced with alacrity on this crisis as a trigger for their long-standing conservative agenda to implement severe cuts at all levels of government in spending that either supports the poor and the middle class or funds crucial public investment, demand federal-level tax cuts for the rich and for business, and radically downsize state and local governments by cutting taxes, slashing wages and benefits for public workers, privatizing public services and even selling-off state-owned facilities (Befort, 2012: 231-232; Crotty, 2012: 79-81, 85-86, 96-99; Dannin, 2012; Pollin, 2012: 184-185).

### **The Post-2010 Galvanization of the Conservative Movement and the Recent Wave of Anti-Public-Sector-Collective-Bargaining Statutes**

More to the point, the deficit crisis “created an opportunity for conservative state governments to both slash government spending and seriously weaken or destroy public sector unions” (Crotty, 2012: 97). Although the “rush to fiscal aus-



terity” and attacks on public workers’ compensation and bargaining power have, in several states and municipalities, been a bipartisan endeavour (Bivens, 2011), a final development setting the stage for the current assault on public-sector workers has been the resurgence of a right-wing coalition centred upon, but not limited to, the Republican Party, in the aftermath of the Democrats’ historic victory of 2008. Just two years after the Obama Democrats’ 2008 landslide, American voters handed the Republicans impressive election victories, handing control of the House back to the Republicans and their new Speaker, John Boehner. Not only did Republicans gain a substantial majority of House seats and reduce the Democrats’ majority in the Senate to a bare handful—they also took control of twenty-five state legislatures (the Democrats dominate sixteen, and another nine legislatures are split) and twenty-nine governor mansions. The 2010 victory gave House and Senate Republicans the opportunity to block any major legislative reforms by the Obama Administration, place budgetary limitations on administrative enforcement of the law, and bargain for a new legislative balance in favour of employers. Instead of a “new New Deal”, US citizens now seem faced with the possibility of a Ronald Reagan-style conservative revolution ‘redux’, which is enthraling the nation in the politics of austerity (Coates, 2012; Crotty, 2012; Skocpol and Williamson, 2012).

Since the 2010 election, Republicans in Congress, and especially in the Senate, have deployed with increasing success a clever strategy of delay and obstruction against liberal-Democratic to launch a “new New Deal” in response to the Great Recession. Both the Senate Republicans and the various groups of right-wing populists making up the so-called Tea Party have legitimated their opposition to the Democrats’ economic and social programme in terms of being true to the first principles of modern conservatism: small government, low taxes, and fiscal solvency. They also inveighed against Democratic policies such as the 2010 economic rescue package for states as a “payoff to union bosses and liberal special interests” (Boehner, 2010).

Buffeted by the “shellacking” the Democrats sustained, in December 2010 President Obama signed a bill that froze federal employee pay for the next two years.<sup>4</sup> The policy was “barely contested by the weak federal unions”, so state and local governments—strapped for funds in the wake of the Great Recession—massively followed suit by instituting layoffs, unilaterally imposing involuntary furloughs, salary cuts and freezes, threatening or legislating pension and health insurance cuts and/or changing their public employee pensions from defined benefit plans to defined contribution plans (Befort, 2012: 232; Lewin, 2012: 13-22; Slater, 2012a: 190, 217-219). Since then, conservative Republicans used their control of the House of Representatives and many state capitals and legislatures to launch a “one-sided austerity-focused class war”. Thus, in

February 2011 the House of Representatives voted for draconian public-sector budget cuts.<sup>5</sup> In August 2011, House leaders demanded still more spending cuts, but no new taxes in exchange for agreeing to lift the debt ceiling (Crotty, 2012: 79, 100-101). The Budget Control Act of 2011, passed to lift the debt ceiling, took another giant step toward dismantling welfare state programmes. In October 2011, Congress defeated the American Jobs Act—Obama’s plan to create employment opportunities for teachers and other public-sector workers, and rebuild the nation’s infrastructure.<sup>6</sup>

In the aftermath of the 2010 midterm election Tea Partiers, who had backed Walker and other “GOPers loyal to ultra-right agendas”, also pushed GOP officials to act quickly and unremittingly not only to “reduce taxes, slash public spending [...] and clear away regulation on business”, but also to “curb” or simply “abolish the rights of public sector unions”, which they see “as closely tied to government and the Democratic Party” (Skocpol and Williamson, 2012: 172). Right-wing activists such as the self-described “Tea Party governor” Scott Walker “presume that measures disempowering their political opponents can help GOPers in 2012 and beyond”. Thus, “[p]ublic sector unions will have less money to spend in 2012 if they cannot collect dues or deliver higher wages and improved benefits to members” (Skocpol and Williamson, 2012: 193). In the years ahead, enfeebled unions in *both* the public and private sectors would indeed amount to US politics with less powerful associations that aggregate and fight for the economic interests of working Americans in state and national politics. As other scholars recently have shown, when you parse today’s anti-public-sector-collective-bargaining laws, it becomes clear these are designed to enfeeble public sector unionism not for the asserted rationale of relieving the budget crises, but for the eminently partisan purpose of depriving liberal-Democratic lawmakers and legislation of powerful support (Brudney, 2011; Fischl, 2011: 60-61; Secunda, 2012: 294; Slater, 2012a: 203; 2012b: 485-486).

## **Conservative-Republican Sponsored Anti-Public-Sector-Collective-Bargaining Statutes in Wisconsin and Beyond**

### **The Politics of Austerity and the Battle for Wisconsin**

The 2010 election brought a Republican sweep to the great state of Wisconsin for the first time since 1969. In 2008, Democrats had garnered a historically large victory, as Barack Obama won more counties in Wisconsin than in any other state in the nation. But in November 2010, the state elected a Republican governor and Republican majorities in both houses of its legislature. Wisconsin’s newly elected governor, Scott Walker, had campaigned on a moderate set of proposals, but his record as administrator of Milwaukee County showed him to be both a fan of privatization of government services and a fervent foe of public-

sector unions (Kersten, 2011). Walker soon revealed himself to be at the cutting edge of the Tea Party agenda (Skocpol and Williamson, 2012: 105). When he took office in January 2011, Wisconsin had no deficit in its current budget, and the long-term deficit, while significant, was smaller than that faced by former governor Jim Doyle when his term began. During his first days in office, Walker remedied this sound fiscal situation by giving away \$137 million in tax breaks to corporations, leaving the state with a shortfall that cried out for a solution. On February 11, just two weeks later, Walker proved his determination to achieve a national profile as a radical Republican reformer. Under the pretext that there was a short-term deficit of about \$140 million through June 30, 2011, and a long-term deficit of some \$3.6 billion, he unveiled a so-called Budget Repair Bill. Walker (2011a, 2011b, 2011c) asserted these would be more hastily expunged by disabling the bargaining power of government workers' unions.

Walker's pretence that anti-collective bargaining rules were required to balance Wisconsin's budget was belied by "two unassailable facts" (Secunda, 2012: 295). First, despite its name, the bill contained a laundry list of non-fiscal items. The most notorious was the evisceration of collective bargaining rights for public employees, home health workers, and day care workers. The law targeted public-sector unions in other ways as well, imposing elaborate new rules for certification and limiting arbitration rights. As noted by Secunda (2012: 295), "in striking down the recertification and anti-dues check-off provisions for non-public safety employees, the district court found that there was little to no connection between Act 10's asserted justifications and these plainly punitive provisions".<sup>7</sup> The second, intimately related fact running against Walker's deceptive claim that anti-collective bargaining rules were required to balance Wisconsin's budget was that, when the proposed bill was, as amended, finally enacted, he and his Republican allies in the legislature "employed a legislative procedure which could only be utilized if Act 10 did not have any impact on state fiscal policy. In short, Governor Walker used the economic crisis, and, more specifically, Wisconsin's budget situation, as a ruse to enact a punitive bill against public-sector unions" (Secunda, 2012: 295).

In response to this aggressive right-wing, anti-union, and anti-worker agenda, unions and their supporters immediately responded to the Walker bill with "sick-outs" and massive protests at the Wisconsin state capitol. Beginning on February 15th, teachers across the state called in sick and protesters began showing up on the Capitol square—initially 10,000 of them, then 20,000, building to 70,000 on February 19 and as many as 100,000 (including 50 farmers on tractors) on March 12th. This is the part of the story that captured the public imagination—the narrative of working classes (in the media's parlance "Main Street") finding their voice and speaking back to the politics of austerity, as a broad swath of the com-

munity (including not only targeted teachers, teaching assistants and students, but also police officers and firefighters, teamsters and steelworkers, immigrant workers, and faith communities) came out to support public workers. With protesters chanting, “this is what democracy looks like”, and, “Recall Walker”, accompanied by bagpipes and cowbells, earnest signs and street theater, the Capitol square became an intense political field. The presence of people in the Capitol seeking to testify before the legislature’s Joint Finance Committee evolved into a kind of friendly “occupation” as the University of Wisconsin’s Teaching Assistant’s Association organized the protesters’ care and feeding. Thousands chanted and drummed, sang and gave speeches through daylight hours and firefighters and steelworkers, teachers and students slept next to each other on the Capitol floor at night (see, e.g., Buhle and Emspak, 2012; Emspak, 2012).

By the morning of February 17, 2011, as the governor and Republican majority in the legislature single-mindedly and hastily pursued their agenda, and as Republican senators shut down amendments and proceeded toward a vote, the 14 Democratic senators suddenly walked out of chambers, climbed into a small bus, and headed for the Illinois border. As noted above, Walker had introduced the Budget Repair Bill as a fiscal measure, despite its non-budgetary, union-busting elements. Because fiscal bills required a super-quorum, the Democratic senators were making it impossible for the senate to vote on the bill, buying time for a broader public discussion and further mobilization of protesters. But, frustrated by their inability to pass legislation without the Democratic senators, senate Republicans gave up the pretext that collective bargaining, Medicaid governance, and power plants were fiscal issues. On March 9, Republicans stripped the fiscal matters from the bill and passed the measure in the state senate without the presence of any Democrats. Two days later, Governor Walker signed the collective bargaining bill into law (Secunda, 2012: 298-299).

Prior to the passage of what eventually became Wisconsin’s Act 10 of March 11, 2011, that state had two fairly similar public sector labour statutes: one covering local and county government employees and the other covering state employees.<sup>8</sup> The Budget Repair Bill signed into law as Act 10 by Walker makes sweeping revisions to these statutes. First, the Act (at § 323) eliminated collective bargaining rights entirely for some employees: University of Wisconsin (UW) system employees, employees of the UW Hospitals and Clinics Authority, and certain home care and childcare providers—thus revoking Executive Order No. 172 issued in October 2006 by Walker’s immediate predecessor, Democratic Gov. James E. Doyle, allowing subsidized and unsubsidized child-care workers to unionize and negotiate with the state.<sup>9</sup> For other categories of government employees, Wisconsin’s Act 10 (at § 245) did not fully eliminate collective bargaining rights but limited them to bargaining over wages and held any

raises negotiated to the rate of inflation. Bargaining over other aspects of the employment relationship (such as benefits, work rules, health and safety issues, work hours, shifts and overtime, grievance procedures, seniority provisions, etc.) was prohibited. Notably, a few categories of public employees were exempted from these changes: employees in “protective occupations”, mainly police and firefighters. Consistent with arguments above, the most likely explanation for this exemption was partisan politics. Those employees’ unions, unlike most other public sector unions, had supported Governor Walker’s election (Fischl, 2011: 60; Secunda, 2012: 296; Slater, 2012a: 203-204). Subsequently, the biannual budget enactment also exempted municipal transit employees from Act 10.<sup>10</sup> Second, the law now requires that employees pay one-half of all the required contributions to their retirement system. Previously, the amount of employee contributions was negotiable—for example, the employer could agree to pay part or all of the employee contributions.<sup>11</sup> In bargaining agreements throughout the 1980s and 1990s, public-sector unions had agreed to take benefits (the costs of which were partially deferred) in lieu of wage increases, but this history of concessions did not enter the mainstream debate. Third, the Act (at § 219) imposed right-to-work rules for all Wisconsin employees except those in “protective occupations”.<sup>12</sup> Despite the radical character of the collective bargaining restrictions and right-to-work rules imposed by Wisconsin’s new labour law, these were not the aspects of the bill that tolled the death knell for unions. Fourth, Wisconsin’s Act 10 (at § 242) created an unprecedented mandatory recertification system under which every union faces a recertification election every year and would have to gain the votes of 51 percent of the membership to remain its bargaining agent.

Following affirmation of Act 10’s lawful enactment, which was a highly contested legal and political process (Secunda, 2012: 299-301),<sup>13</sup> Wisconsin’s new anti-public-sector-collective-bargaining statute went into effect on June 28, 2011.<sup>14</sup> By then, Wisconsinite unionists, their supporters, and the state’s Democrats had also vowed to seek the recall of Gov. Walker and of the Republican state senators who had voted to strip public-sector collective bargaining rights. Wisconsin law precludes recall elections until officials are at least one year into their terms. Officials elected in November 2010—Governor Walker, members of the state assembly, and half the members of the state senate—were therefore not subject to recall elections until January 2012 at the earliest. But in the meantime, six Republican and three Democratic state senators faced recall efforts in July and August of 2011. The outcome was a plus-two gain for Democrats, as all Democrats retained their seats and four out of the six Republicans targeted retained theirs. Whilst the recall efforts reduced the Republican majority, the Democrats were left one seat short of a majority in the Senate and, given also a substantial Republican majority in the Assembly, in no position to either repeal or amend Act 10 (Secunda, 2012: 301-302).

The effort to recall Walker, which began on November 15, 2011 and culminated in a June 8, 2012 recall election, did not lead to a repeal of Act 10 either. The recall election mobilized partisans to a degree exceeding even such highly charged issues as Obamacare or the fate of the Bush tax cuts. During the run up to the recall, both sides spent millions of dollars and fielded tens of thousands of volunteers, most mobilized by the unions, to collect signatures. Over one million citizens signed recall petitions, which also put the fate of the lieutenant governor and four GOP state legislators up for grabs in the June election. Yet this labour-liberal mobilization had its right-wing counterpart—for even though the social base of conservative populism, which ranges from the white working class to the white upper middle class, lies a significant distance away from the corporate interests that form another key Republican constituency, the assault on union power proved one issue upon which both Tea Partiers and establishment GOPers could agree (cf. Dimaggio, 2012: 210-211, 219-222, 226-228; Lichtenstein, 2012: 32; Skocpol and Williamson, 2012: 105, 168, 172, 193). Walker's ability to prevail handily in the recall election of June 5, 2012 showed not only the political heft of the right-wing coalition, but also that the issue of legislative rules eviscerating public employee collective bargaining rights for partisan purposes was simply not enough to convince voters to remove Walker from office.

Wisconsin's Act 10 is merely the most visible example of a massive attack on public-sector workers and collective bargaining taking place at the state level. As such, it was part of a broader attack on government employees and their unions (cf. Aronowitz, 2011; Freeman and Han, 2012; Hogler and Henle, 2011; Malin, 2012; Slater, 2012a). These attacks resulted in several other states significantly revising their public sector labour laws, most notably, but not exclusively, Ohio, where Senate Bill 5 (SB-5) would have, among other things, radically restricted the collective bargaining rights of public employees. SB-5 was signed into law,<sup>15</sup> but, pursuant to a procedure in the Ohio Constitution, opponents of the bill gathered enough signatures to place the law "on hold" pending a voter referendum in November 2011. The voters of Ohio then resoundingly defeated SB-5 by voting "no" on Proposition 2 (Slater, 2012a: 205-208; 2012b: 484-489, 493). In the wake of Walker's triumph in Wisconsin and of the repeal of Ohio's SB-5 by voter referendum, it is clear that the fight for the future of public sector unionism and collective bargaining is settling down into grinding state-by-state trench warfare that is likely to extend indefinitely into the future. Other states—including Idaho, Illinois, Indiana, Michigan, Nebraska Nevada, New Hampshire, New Jersey, Oklahoma and Tennessee—saw the passage of significant limitations on public sector collective bargaining by emboldened Republican legislators.<sup>16</sup> Despite this onslaught, the enactment of anti-public-sector-collective-bargaining statutes was subdued or defeated in some states including Alaska, Colorado, Connecticut, and Iowa.

## Conclusion

As shown above, considerable evidence strongly contradicts claims that laws eviscerating collective bargaining rights for public workers are necessary to deal with budget problems, or even that they would help with budget problems. Public workers are not “overpaid”, problems in pension underfunding that do exist are generally not related to collective bargaining rights, and there is no real correlation between collective bargaining rights and the levels of state deficits. Further, many of the adopted rules on their face have no relation to state budgets or employee compensation; instead, they are meant to damage unions as institutions. Over the next few years, the conflicts that play out in the public sector may well establish patterns that could last a decade or more. At a time when private sector union density has sunk to its lowest point in 80 years, the coming attacks on labour’s largest and strongest unions threaten the future of the entire labour movement. For longer than government has collectively bargained with its employees, there have been conservative opponents of liberal public sector labour relations policies to claim that public sector unions are out to bilk taxpayers, inflate budget deficits, promote labour unrest, and protect lazy and incompetent workers. This trope has flourished in the years since, cropping up with particular ferocity during periods when public-sector workers were making advances or when economic conditions made public sector unions vulnerable to political attack. We have entered a period when the latter is true.

Thus, Wisconsin’s labour law reforms recreate for public employees the labour relations regime that private employers enjoyed before the New Deal and have since largely restored. They dilute union recognition, impair collective bargaining, and silence voice at work, thus threatening “to exacerbate what is already a breathtaking ‘democracy deficit’ in US labor relations” (Fischl, 2011: 40, *passim*). Indeed, initiatives to take away the collective bargaining rights of public employees under the guise of deficit reduction, which are echoed in proposals put forward by several conservative governors and the Republican-controlled US Senate, do not only amount to an effort to turn back the clock to the 1950s and early 1960s, when government workers could legitimately inveigh against the fact that they laboured as ‘second-class’ citizens. They also appear to reclaim labour law as it existed before the New Deal, when employers had the right to hire employees regardless of union membership (the open shop), determined whom to bargain with, and refused to check-off union dues from wages. Not only do the Wisconsin reforms provide that employees who benefit from union bargaining need not share in the cost of union representation (dues), they institute annual recertification elections that require a majority of employees, not actual voters, to choose union representation. They turn union officers into perpetual campaigners and set a higher bar for victory than is common to political elections. Denying

the union the right to check-off dues from payroll undermines union power. If a union must bargain for all employees, inactive members have little reason to pay dues. Even if a majority of employees accede to paying dues voluntarily, consider the time, labour, and money that a union must dedicate to dues collection. Such a requirement, echoed in other state legislations and in recent attempts to put on the legislative agenda of the US Congress proposals to federalize right to work and impose a uniform standard abolishing union security provisions,<sup>17</sup> has one aim: to reduce union membership, lower union income, and weaken the ability of public employee unions to support the Democratic Party.

None of the laws introduced in Wisconsin or other states affect current budget deficits, of which they do not address the “root causes”. Public employees pay state and local taxes and understand the connection between wages, benefits, and taxes. Public employee unions, like private-sector unions, prefer not to put employers out of business through extravagant demands. Since the onset of the global financial crisis, public employees have tolerated salary freezes, involuntary furloughs, and, as in the current Wisconsin case, additional personal contributions to their health and retirement benefits at a cost of substantially reduced take-home pay. Laws such as Wisconsin’s will not alleviate budgetary deficits, but they will weaken public employee unionism, Democratic political influence and an already sickly US welfare state. Will Republicans succeed as well as corporate managers in crippling union power? Walker in Wisconsin and GOPers in other states have stirred a hornets’ nest of opposition among public employees, private-sector union members, and their many allies. For all workers, the climb from powerlessness to the income and dignity that come with having a say in governing their own lives, on the job and in the community, requires a resurgence of collective action, which is now so widely held in contempt. The legacy of generations past of US public workers reminds us of some the goals toward which such action can aspire. But only those who grapple with the present conservative struggle to undo decades of progress towards a democratization of US public-sector labour relations can find the way to achieve those goals.

## Notes

- 1 National Labor Relations Act, 49 Stat. 449 (1935), codified as amended at 29 U.S.C. §§ 151-169 (2006). The Act excludes from coverage employees of “the United States [...] or any State or political subdivision thereof”. 29 U.S.C. § 152(2).
- 2 Wis. Act 10 of March 11, 2011, <<https://docs.legis.wisconsin.gov/2011/related/acts/10.pdf>> (accessed Sept. 7, 2012).
- 3 “A bill to establish a National Public Employee Relations Act”, H.R.1091 and H.R.579, 93<sup>rd</sup> Congress (1973-1974), <<http://thomas.loc.gov/cgi-bin/bdquery/z?d093:HR01091:@@L&summ2=m&>> (accessed Sept. 7, 2012).



- 4 H. R. 3082/Pub. L. No. 111-322. The Executive Order implemented that freeze by maintaining federal pay rates at the same levels as those in both 2010 and 2011. That freeze has since been extended.
- 5 H. R. 1, The Full-Year Continuing Appropriations Act, 2011.
- 6 S.1549, H. Doc. 112-53 and H.R. 12 (2011).
- 7 See, specifically, *Wis. Educ. Ass'n Council v. Walker*, 11-cv-428-wmc, 2012 WL 1068790, at 1-2 (W.D. Wis. Mar. 30, 2012).
- 8 See Chap. 509 of Wisconsin Laws of 1959, Wisc. Stat. Ch. III, subchapter IV, codified as Wis. Stat. Ann. § 111.70(1)(a), amended 2011; Wis. Stat. Ann. § 111.81(1), amended 2011.
- 9 Wis., Exec. Order No. 172 (2006), revoked 2011.
- 10 2011 Wis. Act. 32.
- 11 Wis. Stat. Ann. § 169.59.875, 167.62.623, amended 2011.
- 12 Act 10, § 227, codified at Wis. Stat. Ann. § 111.70(2)(3g).
- 13 See, e.g., *State of Wisconsin ex rel. Ozanne v. Fitzgerald*, 798 N.W. 2d 436, 438 (Wis. 2011).
- 14 *Wis. Educ. Ass'n Council v. Walker*, 11-cv-428-wmc, 2012 WL 1068790, at 4 (W.D. Wis. Mar. 30, 2012).
- 15 S. B. 5, 129<sup>th</sup> Gen. Assemb., Reg. Sess. (Ohio 2011), amended substitute bill.
- 16 See, for the aforementioned states, S.B. 1108 §§ 17 and 22, 61<sup>st</sup> Leg. (Idaho 2011); S.B. 7 § 10, 97<sup>th</sup> Gen. Assemb. (Ill. 2011); S. 575, § 9 (Ind. 2005), amended by S. 575, 117<sup>th</sup> Gen. Assemb., Reg. Sess. § 3 (Ind. 2011); H.B. 4522, 96<sup>th</sup> Leg. (Mich. 2011); Michigan Act of Mar. 16, 2011, Act 4, §§ 15(1)(4) and 19(1)(k); L.B. 397, 102<sup>nd</sup> Leg. (Neb. 2011); S.B. 98, § 7(2)(w), 76<sup>th</sup> Leg. (Nev. 2011); S. 1, 2011 Sess. (N.H. 2011); H.R. 589, 2011 Leg. Sess. (N.H. 2011); 2010 N.J. Laws ch. 105; H.B. 1593, 53<sup>rd</sup> Leg., 1<sup>st</sup> Sess. (Okla. 2011); Tenn. Pub. Acts Ch. No. 378, codified at Tenn. Code Ann. § 49-5-605(b)(1)(2011).
- 17 H.R. 500; S. 370, 109<sup>th</sup> Cong. (2005). See also "S. 2173: National Right-to-Work Act", <<http://www.gpo.gov/fdsys/pkg/BILLS-112s2173pcs/content-detail.html>> (accessed Sept. 7, 2012).

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## SUMMARY

### The Politics of Austerity and the Conservative Offensive against US Public-Sector Unions, 2008-2012

Since the onset of the Great Recession, anti-union conservatives have been hammering out an arguably bogus yet politically potent argument: collective bargaining with government workers is unaffordable as their wages, health benefits, and pensions are driving states into deficits. Whilst evidence does not support the politically motivated attacks on public sector workers and their unions, a confluence of political-economic factors has been abetting efforts to scapegoat public employees and their unions.

The first section of this essay places the 2011 wave of anti-public-sector-collective-bargaining statutes in its broad political and economic context. Whilst resulting from a longstanding hostility of the USA's conservative movement to unionism and collective bargaining, recent anti-public-sector-collective-bargaining statutes are also the outcome of three political-economic developments galvanising anti-union GOPers—first, the fact that most US union members are now government workers, which makes it easier for anti-unionists to characterize them as a "privileged"

elite; second, the Great Recession and ensuing deficit crisis; and third, the rousing of the conservative movement that led to the 2010 electoral "shellacking" of the Democrats. The second section focuses specifically on Wisconsin and argues that what is going on there ought to be seen for what it is: an attempt to exploit the economic crisis to win an eminently political victory over organised labour and allied Democrats.

KEYWORDS: Great Recession, deficit crisis, austerity, politics, public sector unions, collective bargaining

## RÉSUMÉ

### Les politiques d'austérité et l'offensive conservatrice contre les syndicats du secteur public aux États-Unis, 2008-2012

Depuis l'amorce de la Grande Récession, des conservateurs antisyndicaux ont martelé un argument fallacieux mais politiquement ingénieux : la négociation collective entre les divers gouvernements et leurs travailleurs « ruine » l'Amérique puisque la rémunération et les avantages sociaux des fonctionnaires font encourir des déficits aux États. Bien que fondée sur des arguments fallacieux, cette attaque éminemment politique contre les salariés du secteur public et leurs droits légaux en matière de négociation collective rencontre un certain succès en raison d'une conjoncture politico-économique spécifique, qui donne du vent dans les voiles d'un mouvement conservateur cherchant à faire des boucs émissaires des fonctionnaires et de leurs syndicats.

Cet essai situe d'abord dans son contexte politico-économique spécifique la vague de lois visant à abroger ou à restreindre les droits acquis par les fonctionnaires de divers États en matière de négociation collective. Bien que résultant d'une hostilité affichée de longue date par les conservateurs républicains envers le syndicalisme et la négociation collective dans le secteur public, les lois récentes contre la négociation collective sont aussi la résultante de trois développements politico-économique ayant galvanisé l'offensive conservatrice dans le domaine de la législation du travail du secteur : premièrement, le fait que depuis 2009 la majorité des salariés couverts par des conventions collectives œuvrent dans le secteur public; deuxièmement, les conséquences politiques de la Grande Récession et des problèmes budgétaires qui s'en sont suivis; enfin, la galvanisation de la droite du Parti républicain dans la foulée de la victoire d'Obama, qui a contribué à la « raclée » subie par les Démocrates lors des élections de mi-mandat de 2010. L'article analyse ensuite la situation au Wisconsin, où l'adoption de la fort contestée Loi 10 de 2011 se révèle être un effort de la part des Républicains afin d'exploiter la crise budgétaire pour affaiblir tant le mouvement syndical que les Démocrates.

MOTS-CLÉS : Grande Récession, crise budgétaire, politiques d'austérité, syndicats du secteur public, négociation collective

## RESUMEN

### Las políticas de austeridad y la ofensiva conservadora contra los sindicatos del sector público en los Estados-Unidos, 2008-2012

Desde el inicio de la Gran Recesión, los conservadores antisindicales han reiterado un argumento falaz pero políticamente ingenioso: la negociación colectiva entre los diversos gobiernos y sus trabajadores “ruinan” la América puesto que la remuneración y los beneficios sociales de los funcionarios llevan los Estados al déficit. A pesar que están fundados en argumentos falaces, este ataque eminentemente político contra los asalariados del sector público y sus derechos en materia de negociación colectiva encuentra un cierto éxito en razón de una coyuntura político-económica específica que da impulso a un movimiento conservador que busca convertir los funcionarios y sus sindicatos en cabezas de turco.

En primer lugar, este ensayo sitúa en su contexto político-económico la ola de legislaciones que apuntan a revocar o restringir los derechos adquiridos por los funcionarios de diversos Estados en materia de negociación colectiva. Aunque esto resulta de una hostilidad expuesta desde hace tiempo por los conservadores republicanos contra los sindicatos y la negociación colectiva en el sector público, las leyes recientes contra la negociación colectiva son también el resultado de tres desarrollos político-económico que han galvanizado la ofensiva conservadora en el campo de la legislación laboral del sector: en primer lugar, el hecho que desde 2009 la mayoría de los asalariados cubiertos por convenciones colectivas laboran en el sector público; en segundo lugar, las consecuencias políticas de la Gran Recesión y de los problemas presupuestales que han seguido; por último, la galvanización de la derecha del Partido republicano posterior a la victoria de Obama, que ha contribuido a la derrota de los Demócratas en las elecciones de medio mandato de 2010. El artículo analiza enseguida la situación en el Wisconsin, donde la adopción de la muy contestada Ley 10 de 2011 se revela como un esfuerzo de parte de los Republicanos con el fin de explotar la crisis presupuestal para debilitar tanto el movimiento sindical como los Demócratas.

**PALABRAS CLAVES:** Gran Recesión, crisis de presupuesto, política de austeridad, sindicatos del sector público, negociación colectiva