



**Testimony of Dr. Kenneth M. Mash**  
**President, Association of Pennsylvania State College and University Faculties (APSCUF)**  
**Before the House Labor and Industry Committee on House Bill 950**  
**Tuesday, April 25, 2023**  
**515 Irvis Office Building**

Chairman Dawkins, Chairman Mackenzie, and Committee Members,

Good morning. My name is Kenneth M. Mash, and I am a professor of political science in the department of political science and economics at East Stroudsburg University (ESU), and I am currently serving my fourth nonconsecutive term as president of the Association of Pennsylvania State College and University Faculties, the union that represents the faculty and coaches on the 14 campuses that comprise Pennsylvania's State System of Higher Education. It is in that latter capacity that I testify today.

In his 1952 book, *American Capitalism*, John Kenneth Galbraith introduced the notion of countervailing powers, in which he recognized the necessity of labor unions, among other organizations, to offset the ever-increasing power wielded by business in the economic realm. The power of business had to be checked by another power. Galbraith merely put to words what labor understood for some time, *i.e.*, that if left unchecked the imbalance in economic power would be dominant and ultimately destructive. It was only through the give and take of negotiation — made possible through collective action — that fairness could be possible.

As Louis Brandeis once wrote, "Strong, responsible unions are essential to industrial fair play. Without them the labor bargain is wholly one-sided. The parties to the labor contract must be nearly equal in strength if justice is to be worked out, and this means that the workers must be organized and that their organizations must be recognized by employers as a condition precedent to industrial peace."

The notion of countervailing power is far from new. In political theory, we can trace it back to Aristotle's notion of polity where the "golden mean" would be achieved by offsetting power by pitting classes against each other in the city state. Of course, James Madison and the framers brilliantly made use of the notion in structuring our American Constitution by way of a bicameral legislature, the separation of powers, and federalism. "Ambition must be made to counter ambition," Madison wrote in the *Federalist* in his defense for the separation of powers. What can be more American than countervailing power?

What was true of structuring government power became necessary for the economy as the industrial revolution ushered in new forms of power with social Darwinism as its justification. And while some decried increased government power and the growth of the labor movement, what occurred was far short of calamitous. As Dr. Martin Luther King Jr. said in a speech to the AFL-CIO in 1961: "The labor movement did not diminish the strength of the nation but enlarged it. By raising the living standards of millions, labor miraculously created a market for industry and lifted the whole nation to undreamed of levels of production. Those who attack labor forget these simple truths, but history remembers them."

Nevertheless, over the last several decades we have seen coordinated attempts to attack labor both through law, a political system dominated by corporate wealth, and with the use of mysteriously well-funded, so-called public-interest groups and their progeny that spend millions to troll working people and seek to limit their effectiveness to counter enormous power. That power that has driven up the wage gap, diminished pensions, and kept salaries and the minimum wage stagnant.

That is why this amendment is so very crucial. As I see it, it does three important things. First, it makes the Commonwealth a leader in standing up for union rights. As of now, only four state constitutions (New York, Hawaii, Missouri, and Illinois) have constitutional provisions protecting a right to organize. Pennsylvania could, therefore, be on the forefront of restoring the people's power. According to a Gallup poll released in August of 2022, 71% of the public approves of labor unions, which is the highest it has been since 1965. Americans want unions, and they deserve the opportunity to vote on whether it should be a right.

Second, although the National Labor Relations Act (NLRA) guarantees most private-sector workers the right to organize, it does explicitly exempt agricultural and domestic workers. A constitutional amendment could extend the right to organize. Now, some may argue that there is federal preemption in this area and that the courts might strike down an expansion. But that is for the courts to determine.

Third, like the recent Illinois amendment, this amendment would stop attempts to weaken labor unions, like so-called "right-to-work." Pennsylvania would become only the second state to enshrine this provision in its constitution and make it necessary to repeal the amendment in order to be able to pass such laws.

Fourth, and perhaps most important, it is aspirational. Regardless of what the courts decide about preemption or any other challenge, it sends a message that Pennsylvania is a state that truly values the working class. And while people will still have a choice about whether they want to join a union, they can know that if they choose to join, they are protected.

Mr. Chairman and members of the committee, Pennsylvanians deserve the opportunity to vote on this measure. As Ronald Reagan once said, "Where free unions and collective bargaining are forbidden, freedom is lost."