

JOHN T. MCNAY

COLLECTIVE BARGAINING AND THE BATTLE OF OHIO

The Defeat of Senate Bill 5 and the
Struggle to Defend the Middle Class

FOREWORD BY SENATOR SHERROD BROWN



Collective Bargaining and the Battle of Ohio

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Collective Bargaining and the
Battle of Ohio

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to Defend the Middle Class

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To the People of Ohio,

For defending their neighbors, the labor movement, and the middle class.

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FOREWORD

Ohio's Secretary of State had never seen anything like it. Volunteers toted hundreds of boxes with hundreds of thousands of signatures into his office. The 1.3 million signatures—only about 230,000 were required—were so heavy that the Secretary of State had to call in a structural engineer to make sure that the floor could support the weight.

Issue 2—the ballot initiative to repeal Ohio Senate Bill 5, the anti-collective bargaining law—brought together a coalition of seasoned activists and regular working people who had never before been so engaged in the political process.

Some months before, I convened a roundtable of Ohioans at Trinity Episcopal Church across the street from the statehouse to listen to what collective bargaining meant for workers. A teacher said that she negotiates not only for wages and benefits, but also for class size. A police officer explained how he negotiates not just for materials, but for safety equipment. A nurse negotiated for better patient safety.

As new threats to organized labor emerge in statehouses throughout the nation, *Collective Bargaining and the Battle of Ohio* traces the victory over Ohio SB 5 and explains why it is a twenty-first-century turning point in Ohio politics.

Some time ago, I met with a group of janitors working in downtown Cincinnati who just that day had signed their first union contract. I asked one of them what being in a union meant to her. “At the age of 51,” she said, “this is the first time in my life I will have a paid vacation.” These custodians understood—as people all over my state understand—that collective bargaining is the ticket to the middle class.

This was the first time in American history that a ballot initiative defended collective bargaining. Never before have we witnessed this kind of organized, well-financed effort to destroy gains made by American workers.

This resounding 22-point win to preserve collective bargaining rights was a triumph for hotel workers and firefighters, for small business owners and police officers. It was a victory for middle-class workers—and for those who aspire to join the middle class.

Sherrod Brown
United States Senator

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ACKNOWLEDGMENTS

Any book has many contributors in addition to the person who actually does the writing. This book has more than most, because it is about a joint endeavor of the most serious kind, involving the careers and education of thousands of faculty and students, as well as the lives and livelihoods of middle-class working people in many different occupations across Ohio.

My colleagues at the University of Cincinnati have been wonderfully supportive and intellectually challenging. My colleagues with the AAUP across the state and the nation always have our backs. My local chapter of the AAUP is a remarkable organization because of the people who contribute their time to make it so. The energy and optimism of our students is a constant inspiration. My family has been invaluable. I wish to thank those people, as well, who directly helped me with this book. Because they are many and helped in different ways, I hesitate to name them, but I will try to name a few. They include Andrea Tuttle Kornbluh, Sara Kilpatrick, Ionas Rus, Debby Herman, Marty Kich, and Evan Barrett. The great staff at Palgrave have helped enormously, among them Matthew Kopel, Brian O'Connor, and Scarlet Neath.

Nevertheless, this book and any mistakes it may contain or opinions it expresses are mine and mine alone.

This book is dedicated to the people of Ohio. It is often said that the hottest places in hell are reserved for those who, in times of great moral crisis, fail to take a stand. In this time of great moral crisis in our battle against Senate Bill 5, the people of Ohio stood up for the middle class and did what was right. We will always be grateful.

INTRODUCTION



THE BATTLE OF OHIO

On the evening of November 8, 2011, Ohio Gov. John Kasich stepped before microphones to admit that the centerpiece legislation of his administration, Senate Bill 5, had been heavily defeated in a referendum by the people of his state.

“When you get beat,” an at least temporarily chastened Kasich said, “you’ve got to admit it. It is clear the people have spoken.”¹

On Election Day 2011, with voter turnout unusually high for an off-year ballot, Ohio voters defeated Senate Bill 5, or Issue 2, as it was known on the ballot, by a margin of nearly 62 percent to 38 percent (2.2 million votes to 1.3 million).

Senate Bill 5, or SB 5, launched with great fanfare by its right-wing Republican Party supporters early in the year, had been decisively defeated by Ohioans—Democrats, those increasingly rare moderate Republicans, and independents—who didn’t believe in scapegoating public employees for the recession or the state’s budgetary woes.

For me, a university professor and union member, as for so many others, this fight had become very personal. It said a great deal about two different views of Ohio and two different views of America. On the one hand, the proponents of SB 5 suggested that the world was one where, if only individuals would offer themselves up to the benevolent corporate forces of the free market and conservative political officials, then the state’s budget and economic problems would be solved. Backed by corporate titans, conservative think tanks, and right-wing politicians, supporters of SB 5 promised they were only trying to do what was necessary and best for Ohio. In reality, they represented an ideology that, despite borrowing from some of the worst strands of American history, is actually quite foreign to American traditions.

The United States had never been a place, until recently, where any significant portion of the population believed that submission of individual freedom to corporate power was a necessity.

On the other hand, like many others, my life experience had suggested a very different world. In my world, ordinary people needed some protection from the rapacious corporate and political forces that saw their labor as only another commodity to buy and sell. Empowered by shared interests and goals, people could craft lives that were both successful and satisfying. There was no need to sacrifice individual freedom to market forces. More than that, my experience had shown to me how essential it is that the people who actually do the work and produce value also have a say in the workplace.

For me, part of this view was generated by growing up in a small town in the Rocky Mountain West. Anaconda, Montana, was created and dominated by a huge multinational mining corporation, the Anaconda Copper Mining Company. The fabulously rich copper mines in nearby Butte, and the rumbling of the world's largest copper smelter in Anaconda, kept generations employed while creating a unique urban industrial world in the agrarian vastness of Montana. Meanwhile, the famous Copper Kings used their enormous fortunes to play with the state's political system like a toy. The opportunity for real political freedom for Montanans came only in 1912, when by public referendum the people passed the Montana Corrupt Practices Act, which barred corporate contributions to political campaigns, one of the toughest such laws in the nation. Without the powerful unions that had developed to provide some balance and protection, the mighty Anaconda Company would have left nothing behind when it was done depleting the area's resource. These were truths learned in Montana through hard experience. The Montana Corrupt Practices Act has now been undermined by the Supreme Court's Citizens United case, making unconstitutional any reasonable limits on corporate ability to buy elections. To paraphrase a *New Yorker* article on this situation, conservatives have proven to be peculiarly indifferent to the hard-learned lessons of history.²

A further aspect of my background that informs my understanding of the SB 5 battle is my decade-long career as a newspaper reporter and editor in Montana and Idaho, including eight years at *The Montana Standard* in Butte, before I chose to return to academia. My work in newspapers made me keenly aware of economic issues, the motivations of elected officials, and the need for openness in government. It also highlighted the value of a free and accurate press, as well

as the dangers of allowing corporate interests too much control over public money and public policy.

In 2011, as a professor at the university, this need to provide some balance and protection was met by the American Association of University Professors (AAUP), a faculty union at the University of Cincinnati (UC). Certainly, the AAUP is not the kind of industrial union that I had been familiar with in my youth. But with the increasing corporatization of higher education in Ohio and elsewhere in the country, where many university presidents see themselves as CEOs and administrations tend to behave like property management firms, the AAUP has been a valued voice for students, the classroom, and the faculty. I happened to be president of the AAUP at UC in 2011.

Founded in 1915 by John Dewey, a philosopher, psychologist, and educational reformer, and Arthur Lovejoy, a philosopher and historian, the AAUP's original and longstanding objective is to protect faculty from unwarranted intimidation or removal from their positions because of holding unpopular views. This conception of "academic freedom" is essential to the life of higher education and was introduced into academia by the AAUP. In addition to promoting academic freedom, the AAUP also has strongly endorsed the practice of shared governance at colleges and universities. "Shared governance" means that on issues affecting the operation of their institutions, especially on education, curriculum, hiring, reappointment, and tenure, the faculty should have an important role in contributing to decisions. The AAUP's "Statement of Principles on Academic Freedom and Tenure" is the definitive articulation of these principles and practices; it is widely accepted throughout the academic community and known as the "Red Book." In Ohio, the AAUP has a dozen collective bargaining chapters and 11 advocacy chapters, and it represents more than 6,000 faculty members in bargaining units across the state.

The University of Cincinnati has historic roots in the city dating back to 1819. With more than 42,000 students, UC is second in size only to Ohio State University, the behemoth in Columbus.³ Combining a large and complex research-intensive institution with open-access regional campuses, UC can provide students with the kind of opportunities that change lives.

The UC Chapter of the AAUP, which was founded in 1933 but negotiated its first contract in 1975, is the oldest and largest chapter in Ohio. In nearly 40 years of collective bargaining, it has only resorted to a strike twice and has been successful in defending faculty

rights, shared governance, and academic freedom. Despite the stormy periods, most of the time a sense of partnership in a joint endeavor of building a great university informs the AAUP's relationship with the UC administration. Unlike many traditional labor unions, AAUP chapters operate independently of the national office in Washington and the state office in Columbus. It is a grassroots professional organization.

Over the decades, the AAUP—including both its collective bargaining and advocacy chapters in Ohio—had remained studiously nonpolitical. This is especially true of our chapter in Cincinnati. Given UC's size and complexity, and with more than 1,700 full-time faculty members in the bargaining unit, the chapter had chosen to avoid the controversy that might have come with routine political partisanship.

John Kasich, however, by his campaign promises, worked just as hard to change our stance. Over the course of the campaign for governor in 2010, we gradually became aware that Kasich had in mind a sweeping attack on public education and that we in the state's colleges and universities would be targeted as well. Professor Steve Howe, chair of the Psychology Department and then president of the chapter, began to bring these issues to our attention during the summer of 2010, and by September we were ready to break new ground in trying to defend our faculty and the university from this anticipated broad-based attack.

First, our executive council considered, with great gravity, the choice to make our first-ever political campaign donation. Democratic Gov. Ted Strickland had introduced a series of innovative strategies for higher education and had used some federal stimulus funds to help protect education in Ohio from severe cutbacks. He had emphasized the importance of higher education in Ohio in building an economy of the future. Many of the state's budget problems, as will be explained later in this book, were not because of the economic downturn but because of ideologically driven tax cuts that drastically reduced state revenue. Candidate Kasich was evidently going to use the manufactured crisis to attack all of the public unions in Ohio, including the AAUP. Certainly, the next step would be to attack the private unions. Over the decades, the AAUP had created a positive environment at UC, where faculty had respect and influence over the quality of education our students received. Now we were looking at losing all of that. In the face of this crisis, we chose to make a major contribution to the Strickland campaign—the UC chapter of AAUP's first-ever political contribution.

Second, President Howe and I, as vice president at the time, wrote a letter dated October 1, 2010, that was mailed to the homes of our faculty members, outlining why it was of paramount importance that we do what we could to see that Strickland was reelected. The difference between the two candidates, we wrote, was “so stark” and the “implications for higher education and collective bargaining rights” so great that we needed to take a stand. “John Kasich,” we wrote, “has publicly expressed on numerous occasions, his belief that professors and Ohio’s public universities are obstacles to a better future for Ohio, not assets. Mr. Kasich has also repeatedly stated that Ohio’s public employees, and collective bargaining rights currently held by public employees, are ‘the problem’ in Ohio.” We went on to cite statements made by Kasich during the campaign, such as “We need to break the back of organized labor in the schools.”

“We believe,” we wrote in conclusion, “that we will be far better off in these tough times with a governor in Columbus who believes public universities and colleges are an asset to Ohio and the basis for a better future, rather than a governor who sees them—and us—either an obstacle or irrelevant.” We then encouraged the faculty to review the enclosed flyers that listed the opposing positions on educational issues and asked our faculty to make up their own minds and be sure to vote.

This may have all been too little too late, and certainly many public and private unions, as well as many ordinary Ohioans, did not anticipate the ruthlessness of the attack that did come and thus did not mobilize in time to keep Gov. Strickland in office, where he could have served as a firewall against radical and destructive policies. Kasich won the election by the narrowest of margins, with 49 percent of the vote to Strickland’s 47 percent; a mere 77,000 votes out of 3.6 million cast separated the two candidates.⁴

When Senate Bill 5 was rapidly signed into law by Gov. Kasich just a few months later, it contained language that singled out university faculty unions for virtual elimination, alone out of all the other public unions in Ohio. At that point, we knew that our effort to avoid a Kasich governorship, and to defend our university and higher education in Ohio, had been the correct course of action.

Over the next several months, a titanic political struggle ensued, pitting a formerly moribund labor movement in a rust-belt state against right-wing extremists who wanted to remake the state in their own corporate-friendly image. In the process, a historic labor coalition brought together professors, teamsters, secretaries, food service

workers, police officers, schoolteachers, firemen, nurses, and janitors to fight for the continuation of the middle class in Ohio and to help the state continue to be the place of opportunity it has always strived to be.

This book is one story of that battle for Ohio—and perhaps for the soul of America.

CHAPTER 1



THE STORM COMES

“Here we go.” That was the subject line of an email I received early Tuesday morning, February 1, 2011, sent by Stephanie Spanja, one of the University of Cincinnati American Association of University Professors (UC-AAUP) staffers who had been monitoring Ohio legislative activity for the UC faculty. Senate Bill 5 had been introduced by Sen. Shannon Jones, a Republican legislator from the Cincinnati area.

“As it stands,” Spanja wrote, “it is now a statement of intent, but far more sweeping in scope than what most Republicans have been talking about.” Senate Bill 5 was designed to repeal Senate Bill 133, passed in 1983, which had allowed for public employees’ collective bargaining.

This was the beginning of a long and difficult fight to defend workers’ rights in the face of ruthless attacks from right-wing political forces. However, the struggle really began with the Republican sweep of Ohio’s legislature and state offices in the November 2010 election. The GOP had been buoyed by the stagnant state economy and by loud and consistent attacks on Gov. Ted Strickland and other Democratic office holders by the Tea Party and other conservative extremists.

Despite Gov. Strickland’s largely positive record and initial popularity, his administration was undermined by the Great Recession that had engulfed the nation and Ohio. Job losses in the state had soared, and the unemployment rate in Ohio, which had been 5.4 percent in 2007, had topped out at 10.6 percent in late 2009. Although Strickland worked diligently on remedies, Ohio’s economy is so completely entwined with the national market that there is very little that a governor can do in the face of such a systemic crisis. Into this situation walked an opportunist by the name of John Kasich.¹

Coming into the race with a close association with the failed Lehman Brothers investment bank, Kasich nevertheless portrayed himself as a kind of financial wizard, endowed with the know-how to solve Ohio's economic problems. Kasich was born in McKee's Rocks, Pennsylvania, a small Ohio River town not far from Pittsburgh, and his father was a U.S. Post Office employee, making his son's animosity toward public unions a bit odd. Moving to Ohio in 1970 to attend Ohio State University, Kasich earned a bachelor's degree in business administration in 1974. He served from 1975 to 1978 as an administrative assistant to then-senator Donald "Buz" Lukens.²

With his election to the Ohio Senate in 1978 at age 26, Kasich became the youngest person ever elected to that body. He won election to Congress in 1982 from Ohio's Twelfth Congressional District. He rose to chair the House Budget Committee, where he was known as a chief architect behind the Balanced Budget Act of 1997. Like President Bill Clinton, Kasich has routinely claimed credit for the government surplus that developed in the 1990s. This claim, however, earned three "Pinocchios" from *The Washington Post's* fact-check of the speech Kasich gave the 2012 Republican National Convention. The *Post* pointed out that no Republicans voted for the 1993 budget bill, which included tax increases that provided the revenue for the surplus. Further, the *Post* noted, "two of the seven budgets Kasich helped craft as chair of the Budget Committee from January 1995 until January 2001 ended up running deficits, so the former congressman can't claim to be so horrified by a growing national debt."³

Kasich chose not to run for Congress in 2000; instead he opened an exploratory effort for the presidency. His campaign soon foundered on a lack of money and a lack of support from voters in Iowa and New Hampshire. Kasich abandoned his effort and announced his support for George W. Bush. Kasich then launched a brief career on Fox News, co-hosting Bill O'Reilly's show as well as debuting his own, *From the Heartland with John Kasich*.

Gov. Kasich has authored a couple of books that give us a window into his thinking. In 1998, he published a series of essays entitled *Courage Is Contagious: Ordinary People Doing Extraordinary Things to Change the Face of America*. This seemed a rather heavy-handed attempt at modeling his book after John F. Kennedy's *Profiles in Courage*, but in actuality, the book follows much more closely the ideas on volunteerism expressed by another president, Herbert Hoover.

In books and speeches, Hoover was an enthusiastic supporter of people volunteering to provide services individually, rather than having government resources used to provide necessary public services.