

# ISSUE BRIEF

## Hobbs Act

**The deceptively named Freedom From Union Violence Act would subject union members to 20 years imprisonment under a federal extortion statute—the Hobbs Act—for engaging in traditional non-threatening, nonviolent strike activity that makes employers fear economic loss.** The real aim of this bill is not to prevent strike-related violence, which occurs rarely and already is addressed comprehensively by a host of state and federal statutes, but to intimidate workers from exercising their collective bargaining rights. Congress must strengthen workers’ collective bargaining rights and oppose legislation—such as the Freedom From Union Violence Act—that would undermine those rights.

The Hobbs Act of 1946 is a federal extortion statute that makes it a federal crime to obstruct interstate commerce by using or threatening force to obtain property from another person. In *United States v. Enmons*, 410 U.S. 396 (1973), the U.S. Supreme Court ruled that the Hobbs Act does not apply to the use of force in connection with legitimate union demands such as higher wages. Former Sen. Strom Thurmond’s Freedom From Union Violence Act would overturn *Enmons* by extending the Hobbs Act to conduct associated with legitimate labor objectives. The Thurmond bill also would include “wrongful use of fear not involving force or violence” within the Hobbs Act definition of extortion. Violators would be subject to criminal fines of \$100,000, 20 years in prison or both.

**There is no crisis of union violence.** Violence is wrong, whether committed by workers or by employers’ security guards. Yet there is no empirical evidence to support the insinuation that strike-related violence by workers is on the rise, that it is a serious national problem, that the panoply of applicable state and federal statutes is inadequate or that employers are not responsible for instigating much of the violence that occasionally erupts during emotionally charged labor disputes. Annual strike activity has been and remains at historically low levels.

**Strike-related violence already is addressed by state criminal law.** The argument that *Enmons* creates a loophole that immunizes union-instigated violence is patently false. The intentional commission of violence against person or property is a crime in every state.

**Strike-related violence already is addressed by state civil law.** A long established federal and state civil law system routinely addresses labor–management violence. State courts have long enjoined violence and other threatening conduct occurring in connection with labor disputes. State civil law also affords remedies such as compensatory and punitive damages to individuals injured by violence arising from a labor dispute.

**Federal labor law already addresses strike-related violence.** The National Labor Relations Act (NLRA) provides additional civil regulation of violent conduct by union members and employers. The NLRA also allows employers to fire strikers who engage in serious violence.

**The Thurmond bill is one-sided.** Most labor disputes involve union demands for increased wages, benefits or improved working conditions, which some employers have construed as demands for their property. By sweeping such legitimate labor demands within the definition of “extortion,” the

Thurmond bill would not apply draconian Hobbs Act penalties to misconduct by employers during labor disputes, but would apply such penalties to misconduct (and even legitimate conduct) by union members.

**Overturing *Enmons* would fundamentally alter federal labor law.** As the Supreme Court emphasized in *Enmons*, extending the Hobbs Act to conduct associated with legitimate labor demands would “work...an extraordinary change in federal labor law.” The court warned that this broad definition of “extortion” “is not easily restricted” and could cover any conduct during the course of a strike that could be characterized as overtly coercive.

**The Thurmond bill also would apply to nonviolent conduct.** In addition to overturning *Enmons*, the Thurmond bill would make union conduct not involving force or violence a violation of the Hobbs Act. The conduct need only involve the use of “fear,” and the fear induced may be simply fear of economic harm or loss. In other words, the Thurmond bill would apply draconian Hobbs Act criminal penalties to nonviolent, nonthreatening traditional union conduct designed to induce an employer to fear economic loss so that it will concede to legitimate union demands.

**The Thurmond bill would intimidate workers from exercising collective bargaining rights.** Fewer workers would exercise their federally protected right to strike knowing that any worker misconduct that occurs during the course of the strike would be grounds for a federal Hobbs Act indictment, while any employer misconduct would be held to a lower standard. Still fewer workers would exercise their right to strike if inducing an employer to fear economic loss were also grounds for a Hobbs Act indictment. The Thurmond bill aims to impair workers’ right to strike, and to undermine workers’ leverage to press legitimate demands in collective bargaining.