Written by **Brian Farmer** on June 15, 2012

Right to Work Works!

The concept of the right to work is enshrined in the Universal Declaration of Human Rights, which was drafted by the United Nations General Assembly in 1948. Article 23.1 declares, "Everyone has the right to work, to free choice of employment, to just and favorable conditions of work, and to protection against unemployment." Article 23.4 goes on to state, "Everyone has the right to form and to join trade unions for the protection of his interests." Those statements raise a couple of interesting questions: Does everyone have the right *not* to join a trade union, or labor union, in order to enjoy the right to work? And if one is compelled to join a labor union in order to exercise his right to work, then how can one be said to have free choice of employment and to have protection against unemployment?

For purposes of this discussion, the definition of the Right to Work principle will be that provided by the National Institute for Labor Relations Research:

> The Right to Work principle — the guiding concept of the Institute — affirms the right of every free American to work for a living without being compelled to belong to a union. Compulsory unionism in any form — "union," "closed," or "agency" shop — is a contradiction of the Right to Work principle and the fundamental human right which that principle represents. Every individual must have the right, but must not be compelled, to join a labor union.

The Right to Work is neither "anti-union" nor "pro-union." It is a matter of individual freedom. The Right to Work principle affirms the right of all Americans to work where they want and for whom they want without coercion of any kind to join or not to join labor unions, or to support them in any way. Unions, after all, are private organizations. No other private organization in America insists on having the power to extract financial support from unwilling people.

We know that a labor union is a private organization of workers, but what kind of private organization is a labor union? Is it a fraternity? Is it a business? Is it a charity? In any case, there is a crucial distinction between labor unions and all other private organizations: Labor unions use coercion in the attempts to achieve their goals. As insinuated in the Right to Work definition above, no other form of private organization is allowed to compel people to become members and to force them to pay dues against their will in order to get or keep a job.

Pay to Play

How, then, do labor unions play their role in the economy? What is the true nature and character of a labor union? According to *Webster's Collegiate Dictionary*, a labor union is "an organization of workers

formed for the purpose of advancing its members' interests in respect to wages, benefits, and working conditions." In order to succeed in holding such an organization together over the long term, a labor union has to be able to deliver on the claim that it can and will obtain a better deal for its members than they would receive in a free and open market. The only means of accomplishing this is by controlling the supply of labor available to an employer, which the labor union does by preventing non-members from having access to the employer. When there is a contractual agreement between a labor union and an employer, it is basically a compact whereby the employer agrees to enforce the provisions of the contract, which almost invariably includes the requirement that the employer will only hire members of that labor union.

But why would employers agree to hire only labor-union members and not avail themselves of the entire worker pool in a free and open market? And why would employers agree to pay more than they would otherwise have to pay in order to attract workers? In short, what would induce employers to act against their own self-interest? As mentioned above, such conditions can only exist in an environment where labor unions are allowed to use coercion or intimidation in attempting to get what they want. And such an environment can only prevail if the government is willing to turn a blind eye to it, or even encourage it. In the free and civil society that America is supposed to be, how did such a diabolical situation come to pass? Long story short: It is the legacy of those politicians who allowed themselves to be seduced by labor union money and political support into departing from the American principles of individual liberty, economic freedom, and limited government. As a result, thanks to certain pieces of legislation, executive orders, and court decisions, labor unions are now legally allowed to function as little more than extortion rackets operating under government protection.

The most significant piece of legislation in that regard was the National Labor Relations Act of 1935, also referred to as the Wagner Act, named after its chief sponsor, Senator Robert Wagner of New York. The Wagner Act removed the ability of employers to resist unionization by defining various unfair labor practices, all of which were directed at employers. (The assumption appeared to be that there were no unfair labor practices that could possibly be committed by labor unions!) The justification for the Wagner Act was stated therein as follows:

> Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.

Translating that from legalese into plain English, the justification for the Wagner Act starts with the recognition that Congress is empowered to make laws regulating interstate commerce and that labor disputes often lead to disruptions in interstate commerce, then finishes with the assertion that the cause of those disruptions is the resistance of employers to reach agreements with their employees through collective bargaining.

Opponents of the Wagner Act tried for more than a decade to repeal or amend it, without success. However, after the end of World War II in 1945, there was a significant increase in labor-union agitation and strike activity. Also, with the advent of the Cold War with the Soviet Union, there was concern that labor-union leadership might become infiltrated with radical elements. In response, Congress passed the Taft-Hartley Act, named after its two sponsors, Senator Robert Taft of Ohio and Representative Fred

A. Hartley, Jr. of New Jersey, which was designed to regulate the activities of labor unions. The legislation was initially vetoed by President Harry Truman, but members of Congress voted in sufficient numbers to overturn the President's veto with the constitutionally required two-thirds majority in both the Senate and the House of Representatives, and the Taft-Hartley Act was enacted into law on June 23, 1947.

Cows and Free Milk

One of the key provisions of the Taft-Hartley Act allows states to pass Right to Work laws, except for certain industries, such as railroads and airlines. As a result, 23 states have enacted legislation outlawing the so-called "union shop," which is an arrangement whereby a new employee must join the labor union representing the workers of a given company or industry within a specified period of time. The argument for a union shop is that all employees will receive greater benefits from collective bargaining performed by a labor union than would be the case if each individual employee were to act on his or her own behalf. The labor-union leadership would argue that all employees should contribute financially to support the collective bargaining process, because they all benefit from it. The primary labor-union argument against Right to Work laws is that such laws create the so-called "free rider" problem, whereby employees who do not join the labor union and pay membership dues will reap the same benefits as those who join the labor union and pay membership dues. Opponents of Right to Work laws point out that the "free rider" option weakens labor unions because fewer people are likely to join a labor union and pay membership dues if they can opt out and still enjoy the benefits of membership. It's a classic example of that old maxim, "Why buy the cow, when the milk is free?"

On the other hand, the Right to Work argument is motivated by the principle of individual freedom, namely, that each individual should be free to decide for himself whether he wants to join a labor union and pay membership dues. Obviously, without monetary support from employees through compulsory membership dues, labor unions would lose their clout. But just as one could condemn "free riders," one could just as easily condemn a labor union for making workers "captive paying passengers," so to speak, against their will. This is especially true when one considers that labor-union membership dues are often used for political activities that many labor-union members do not support.

In any case, the Right to Work principle is back in the news as a major political issue, thanks primarily to the limitation of public-sector labor-union collective bargaining privileges in Wisconsin by Governor Scott Walker and the Republican-controlled legislature in Madison, which led to efforts to recall him and a number of state Senators. That action by Governor Walker and Republican legislators was considered to be nothing less than a full-fledged frontal assault on a major Democratic constituency. Now that Governor Walker has won the much-watched recall election of June 5, labor-union leaders fear that he may be emboldened enough to try and promote legislation that would turn Wisconsin into a Right to Work state. Governor Walker claims that he does not support a Right to Work law for Wisconsin, but that has not satisfied those who support labor-union collective-bargaining privileges.

It appears that labor-union officials are encouraging their members to write letters to their local newspapers in Wisconsin, in an attempt to argue the case against Right to Work laws. One talking point being emphasized was highlighted in a letter to the editor that was printed in the Appleton *Post-Crescent* on May 1: "Having a right to work state does not necessarily attract more industry. If that were true, states like Mississippi would have low poverty rates and low unemployment rates. Many of the right to work states have high rates of poverty because people just aren't paid enough."

An attempt is being made to link the high poverty rate in Mississippi and other states, such as Louisiana

and Alabama, to their status as Right to Work states, in an obvious attempt to discredit the Right to Work concept. However, closer examination of the issue leads to a very different explanation. According to the United States Census Bureau, blacks make up 37 percent of the population of Mississippi, compared to less than 13 percent of the American population as a whole. The illegitimate birth rate in the black community is reported by some sources to be as high as 72 percent. And it should surprise no one that single motherhood is the leading predictor of household poverty in this country. A child born to an unwed mother without the father living in the home is five times more likely to live in poverty than a child born to a married woman with the father living under the same roof. Putting it all together, the relatively higher poverty rate in Mississippi (20 percent, versus the U.S. average of 13 percent) and other such states is not a function of their Right to Work laws, as labor-union supporters would have us believe. Rather, it is a function of the social pathology described above.

A better way of evaluating whether Right to Work laws help or hurt the poor — and the economy in general — is to compare Right to Work states as a group to non-Right to Work states. In fact, such a comparison debunks another argument being used to discredit the Right to Work principle: It amounts to little more than "the right to work for less," because workers who belong to labor unions generally earn more than workers in the same industry who are not members of a labor union. However, upon closer inspection, the situation is, once again, not quite that simple. According to a May 2010 report by the U.S. Department of Labor's Bureau of Labor Statistics, the average hourly wage for all occupations across all of the states allowing the union shop is 20.5 percent higher than the overall average for the Right to Work states. On the other hand, the cost of living across all of the union shop states is 23.9 percent higher than in all of the Right to Work states taken together. And a February 2011 study by the Economic Policy Institute revealed that the overall unemployment rate is lower in Right to Work states.

And there's more: As reported in the *National Right to Work Newsletter*, based on data from the U.S. Department of Commerce and the U.S. Department of Labor, the top six states in job growth are all Right to Work states. The worst six are union-shop states, except for Louisiana, which is still recovering from the devastation of Hurricane Katrina. Between 2001 and 2011, Right to Work states experienced private-sector job growth of 2.4 percent and real personal income growth of 12.5 percent. Meanwhile, over the same time period, the union-shop states lost 3.4 percent of their private-sector jobs and had real personal income growth of only 3.1 percent.

On top of that, U.S. Census Bureau data reveal that, while just 23 of the 50 states have Right to Work laws, more than half of the nation's population resides in those 23 Right to Work states. After the 2010 census, eight states gained seats in the House of Representatives because their populations grew significantly faster than the national average. Seven of those eight were Right to Work states. Nine states lost seats in the House of Representatives because their populations grew significantly slower than the national average. Only two of the nine were Right to Work states, and one of the two was Louisiana.

Think of the states that have been in the news for being in such dire financial straits, such as California, Illinois, Michigan, New Jersey, New York, and Ohio. They are all union-shop states.

The record is clear: Right to Work works, while the union shop, which encourages productivity-killing work rules and a hate-the-boss work environment, leads to economic stagnation and financial misery. That probably explains why surveys repeatedly show that nearly 80 percent of Americans support the Right to Work principle, and why Indiana became the nation's 23rd Right to Work state on March 14 of this year, after Governor Mitch Daniels signed Right to Work legislation into law in February.

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