

# A libertarian view of trade unions and the Right to Work

by

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Ask a libertarian what he thinks of trade unions and you will, in most cases, receive a short, blunt reply. However as I will show later on, unions do have a role to play, but only if present legislation is changed to allow the individual worker the right to work.

## ***Are Trade Unions desirable?***

Yes (surprise!). If unions are voluntary organizations through which people pool their talents and abilities to better their lot, then like any other such organization--be it a corporation, a bridge club, a hockey team or an AIDS hospice--they are by definition desirable. The reason the answer is surprising is that "unions" today mean unions that enjoy special legal privileges that permit them to expropriate the property of employers and violate the rights of workers and the public in order to gain by force what they cannot gain by cooperation.

Trade unions as they are regulated under Canadian law are institutions that are antithetical to the libertarian ideal. They are tightly controlled, coercive, force using organizations that limit the freedom of the individual worker and create market distortions by prohibiting the free exchange between employee and employer.

*"Private sector unionism in Canada is structured and regulated by each province's respective labour relations codes. All provincial labour legislation specifies that employers and unions are free to enter into an agreement whereby all employees are required to be union members. A union that gets a majority of workers' votes in a certification election becomes the exclusive bargaining agent for all of the workers in a bargaining unit. On matters that come under the scope of collective bargaining, individual workers are forbidden to represent themselves. Every worker is forced to accept the representation services of the exclusive bargaining agent. Most labour agreements have a union security clause. The absence of a union security clause is commonly called an "open shop." The inclusion of a union security clause can be in the form of a "closed shop," a "union shop," or a "Rand Formula." [1]*

Under all provincial labour codes, this form of representation means

that workers are not free as individuals, to decide whether to be represented by a union, nor can competing unions offer representation services to minorities. Union security contracts negotiated under provincial labour codes are such that individuals who are subsequently employed in a particular firm are not free to opt out of union membership and/or payment of union dues. Therefore, union security contracts cannot be called voluntary exchange contracts.

A libertarian position would allow workers the right to freely enter into contract with an employer by selling his own labour at a wage that both he and the employer agree upon. This concept has come to be known as The Right to Work.

What is the Right to Work?

Right to Work means the right of any worker to offer to work for a lower, the same, or a higher wage than the wage considered acceptable by any person or group of persons. According to RTW, no worker nor any group of workers can shut out other workers who are willing to accept a lower wage offer by an employer. The issue of RTW encompasses the mutual agreement between employees and employers to include or not to include union security clauses in collective agreements.

Quite simply, RTW means that each person has a right to acquire and maintain employment with any willing employer without having to join or pay dues to an exclusive bargaining agent or any other union.

This of course, is abhorrent to the collectivist mindset of the trade union movement and for good reason. With workers being able to enter into contract directly, the unions would lose a lot of their bargaining (extorting) powers. They also would have to contend with a loss of revenue as employees, seeing the fiscal advantages of avoiding union dues and other levies that come with union membership would leave the union.

How Unions control the labour market

In essence, unions are government-sanctioned monopolies. Given their monopoly status, unions can impose sizable economic distortions and costs on the economy. For example, trade unions gain wage increases for their members at the expense of consumers, shareholders, and especially non-unionized workers as well, they reduce productivity increases and economic growth, and also impede the development and growth of small firms which generate substantial employment in Canada.

This monopolistic control over labour creates a situation where businesses are unable to maintain flexibility in a rapidly changing market. This lack of flexibility results in a loss of competitiveness and a corresponding cry from displaced workers for government intervention into the marketplace with tariffs and subsidies. The end result is a double loss for the consumer. He loses the lower cost,

higher quality goods that a free market produces, and as a further injustice, is forced to pay for this intervention through higher taxes.

*"Closed-shop unions introduced rigidity into the labour market. Rigid work arrangements impeded flexibility in production. This inflexibility led to lower levels of productivity and reduced firms' capacities to respond to changing market conditions."*[2]

This rigidity has caused many of our formerly strong manufacturers, to close shop in Canada and flee to economically friendlier countries. Although our taxation rate and monetary policies are contributors to the loss of manufacturing jobs, the traditional union mindset of Us against Them has been a major job killer.

Another way that the trade union movement has hurt the worker has been the constant demand for an increased minimum wage. This regressive policy has had the result of creating a pool of unemployed youth and a greater drain, through increased social spending, on the GDP of the country. Although the labour movement denies it, the minimum wage laws encourage exploitation. It protects highly-trained, well-paid workers against competition from the most vulnerable people in the labour market. Why hire an overpriced, untrained youngster when experienced workers can do the job at a slightly higher cost? Thus the young don't gain experience, which reduces their bargaining power vis-a-vis employers. Unions support the minimum wage for the same reason they oppose free trade with less developed countries: to protect themselves from cheap, competing labour.

## **Myth: The minimum wage protects workers from poverty.**

*Reality: The minimum wage destroys jobs and guarantees that some people will stay poor for a long time. This is hard to see without some basic idea of how job markets work. Businesses use a mix of people and machines to make their product. Often a business will train its workers to make them more productive. In return for such training, workers accept a lower wage than they would without training. This is how workers "pay" for their practical educations. If wages rise because of a government law, businesses will try to get the same job done by investing in machines instead of people. Minimum wages lead to fewer jobs and shut the door to the university of the workplace. If governments care about poverty, they should focus directly on the problem by giving the poor a basic allowance to cover the essentials of life. Governments should not distort labour markets and stunt careers in a roundabout effort to help the poor. Even though most economists agree that minimum wages hurt those they are intended to protect, most other people like the idea. Last month the French prime minister tried to get rid of the minimum wage, but had to back down after students took to the streets in protest. The students wanted high wages and jobs. The same reaction would face any Canadian politician who tried such a direct solution to youth unemployment. Until people realize that high wages cannot be decreed, but must be arrived at through years of experience at*

*work, politicians will be forced to destroy jobs with a minimum wage and patch up the mess with worker training programs and make-work projects."*[3]

## **Right To Work Legislation not a Cure-all**

Enacting Right to Work legislation would not miraculously cure our economic ills; we have far more problems than just union monopolism, but it would be a step in the right direction.

Several studies have examined countries and states where RTW legislation has been passed and the results are conclusive. Right to Work legislation is beneficial to both business and labour.

*"A survey conducted by the Fantus Company, one of the largest industrial relocation firms in the U.S., indicated that half of all businesses looking to relocate will not even consider moving to a state without a RTW law. Another survey of industrial site selection decision-makers undertaken by Area Development Magazine revealed similar results: 39.1 percent of respondents considered RTW laws "very important" in determining to where they would relocate. Another 32.3 percent considered it to be an "important" consideration. A study conducted by the Center for Business and Economic Research of the University of Tennessee demonstrated that "low taxes," "tax concessions," and "government support for site acquisition" are ranked as being less important decision-affecting factors than RTW laws. The conclusion is clear: an attractive business climate--of which a state RTW law is an essential part--encourages new firms and increases development and expansion by existing businesses."*[4]

## **Examples of the economic Impact of RTW**

In the United States, 21 of 50 states have some form of RTW legislation. Florida was the first state to pass RTW legislation, in 1944. Four states have enacted RTW legislation since 1955, with Idaho being the latest in 1986. The economic impact in investment growth, job creation, and income growth has been impressive in RTW states in comparison to non-RTW states.

The appropriate comparison across cities, states, or regions in measuring economic well-being is the purchasing power of after-tax annual income. The relevant question is: is money income (adjusted for taxes and the cost of living) higher in non-RTW states than in RTW states? Research conducted by Professor James Bennett suggests that in 1993 after adjusting for the cost of living and the state and local tax burden, the average after-tax annual income is \$36,540 in RTW states versus only \$33,688 in non-RTW states. Thus, a typical urban family in a RTW state has \$2,852 more in after-tax purchasing power than a similar

family in a non-RTW state.

Another important point raised by Professor Bennett's study is that the gap in living standards between RTW and non-RTW states appears to be growing. In 1987, RTW states had only \$1,377 more in after-tax purchasing power compared to the 1993 figure of \$2,852. The difference in after-tax purchasing power between RTW and non-RTW states has more than doubled between 1987 and 1993.

Between 1988 and 1993, 77 percent of all new high-paying manufacturing jobs in the U.S. were created in the 21 RTW states, even though these states have less than 35 percent of the U.S. population.

RTW states also attracted 57 percent of new and expanded corporate facilities in 1992. As well, they created 98,400 more non-agricultural jobs than non-RTW states over the 1987 to 1993 period.

Since the passage of RTW legislation in Idaho in 1986, 103,700 non-agricultural manufacturing jobs have been created.

During the 1983 to 1993 period, according to the National Institute for Labour Relations Research (NILRR) in Virginia, states without RTW laws suffered a net loss of 876,300 manufacturing jobs, while RTW states experienced a net gain of 503,800.

Between 1984 and 1991, New Zealand converted its economic system from the most heavily regulated system to the least regulated of the OECD countries.

Among its reforms was the Employment Contracts Act (ECA), which was the cornerstone of the comprehensive economic and social reform program. The ECA converted a centralist, corporatist, industrial relations system into a decentralized market order. Freely negotiated labour contracts are now the basis for responsive, diverse labour markets.

This was done in the face of dire warnings of the consequences of labour reforms. The main thrust of the arguments was that real wages would fall, creating low-paying jobs.

Subsequent events have shown these fears to be unfounded. Using industry-level quarterly data from 1986 to 1993, an econometric analysis found that "at least one percentage point of the employment growth rate [of the 4.4 percent growth rate since the ECA] can be attributed to the ECA legislation." Several other indicators suggest that RTW legislation has had a positive economic impact.

In the first half of 1991, the recession, which had begun in 1989, came to an end in New Zealand. Output grew by 15 percent in the three years prior to 1995--as much as it had grown during the entire decade between

1974 and 1984.

Between the passage of the ECA in 1991 and 1995, more than 150,000 new jobs were created, the equivalent of the entire workforce of Christchurch or Wellington. In March 1995, there were 5 percent more jobs than a year earlier.

From a high of nearly 11 percent in September 1991, the aggregate rate of unemployment has fallen consistently, decreasing to 6.6 percent as of March 1995.

Given the 1991-92 recession, wages and salaries per employee in the business sector rose marginally after the ECA.

Strike activity fell after the enactment of the ECA. In the first 10 months after the passage of the Act, 90 percent fewer working days were lost than in the 10 months from May 1990 to March 1991.

## **Should RTW be extended to cover the Public Sector?**

One area that has not been covered is the area of the economy known as the public sector. The public sector, in Canada, is a bloated, rigidly structured economic drain. The unions that dominate the sector are among the most militant and politically powerful. Libertarians would open up the public sector to direct competition with private sector firms. The workers in the public sector should also have the benefit of competition. Therefore, Right to Work legislation should include the public sector as well as the private sector unions.

In other countries with an equally high level of unionization as Canada does, that have made the shift to open shops and Right to Work legislation, both government and unions have realized that it is in their best interests to work cooperatively and resolve their differences.

In Australia, long known as a pro-labour country with a predominant history of Labour party government, the government has negotiated contracting out of jobs. Both in Australia and in the United Kingdom, the question of job security in the transition from public sector to private sector has been resolved to a large extent.

Employees are not fired by the government agency, they are taken over by the private agency who negotiates a new agreement with them. This allows the private sector firm to take over the agency without having to acquire the excessive baggage that comes with government agencies and allows a true market value to be set for the price of the transaction.

## **Restoring a balance between Unions and Employers**

In Britain, the Trade Union laws were changed to allow members of the unions to decide by secret ballot, whether they went on strike and the election of union officials. Closed shops were abolished. A law was passed that allowed a trade union's funds to be sequestered by Court Order if the union did not obey the law. An essential part of safeguarding the rights of workers was convincing the police that keeping the peace on the picket line meant more than saying "Look, don't try to go to work through the picket lines at a colliery, there'll be demonstrations, it'll make it difficult."

The government took the view, and the Attorney General made the appropriate speech to reflect this view, that the task of the police was to keep the law abiding citizen able to go to his place of work at the time when he was due there. So even though there were terrible pickets, even though there was violence on the picket line, the task of the police was to get through the picket line those miners who wished to go to work.

As a result, over one-third of the striking coal miners, during the 1984 coal strike, went to work on a regular basis.

"You simply have to give people the opportunity to do better. It enriches their lives, they have money left over to give to preserving historic sites, to the arts, to the sciences, to music, and so on. Most importantly, we all want to get other people out of poverty, and you can only do it by the wealth you have created."[5]

## **Future trends in Trade Unionism**

Professor Leo Troy, one of North America's most distinguished experts on the role of unions in labour markets, is engaged in a book-length examination of the future of unions in North America for The Fraser Institute. He has recently completed a preliminary report outlining the major issues; this report is available upon request from The Fraser Institute.

He has found that the trend towards lower penetration of unions into the labour market is accelerating and could eventually bring the level of unionised workers back to the percentage at the beginning of this century.

## **Private versus public**

*"Fundamental to any assessment of what unions do and why, within and*

*across countries, is the dis-aggregation of the private and the public sectors of unionism, the labour market, and the economy. Within countries, the two union groups operate in different labour markets, have different philosophies, enrol unequal numbers of members, penetrate their respective labour markets to significantly different degrees (the public sector is everywhere far higher), experience different life-cycles, and affect the economy and society in different ways. Analytically there are two, not a single union movement within countries. Affiliation with a common federation notwithstanding, each of the two union movements probably has more in common with its international counterpart than with its domestic complement. If the two wings of organized labour are treated as an entity, analysis of trends are distorted within and across countries. For example, public sector union membership dominates the make-up of the labour movement in Canada, while the reverse is true in the U.S. Hence, comparison of the overall union movements in the two countries is misleading--it is an apples-to-oranges comparison."*[6]

## **Employment and unionism**

Private union membership peaked in Canada in 1979 at 1.5 million, and the top rate of unionization, attained in 1958, was 34 percent. For the U.S. private union membership peaked in 1970 at 17 million, and the top penetration rate was reached in 1953 at 36 percent. By 1992 estimated Canadian union density had tumbled to 18 percent, and is believed to have dropped further by 1994. In the U.S., private unions' market share dropped to 10.9 percent in 1994. For Canada the 18 percent rate was previously experienced in 1941 and before that in 1936-1938. For the U.S. the current 10.9 percent was reached in 1938, and once before in 1917. Private sector union membership shrunk by about 7.25 million members in the U.S. between 1970 and 1994. For Canada, it is estimated that the loss in private sector union membership between 1979 (the perceived peak) and 1992 exceeded 200,000. This reduces the estimated 1992 Canadian private union membership to about 1.3 million which, again, has since declined further.

The U.S. led Canada both in the timing and the extent of the decline in private sector unionism. What is significant about these declines? In both countries, union membership in manufacturing (the keystone of private labour in all advanced countries) declined far more than employment. For example, in Canada, between 1979 and 1992, union membership in the manufacturing sector shrunk by virtually one-third (33.2 percent). In contrast, employment declined by just under one-half that rate (16.6 percent). These disparities mean that nonunion employment rose in Canada, just as it had in the U.S. The combined effect of membership loss and nonunion employment growth reduced manufacturing union density in Canada from 44.5 percent to 35.2 percent over the same period.

Further, these figures indicate that there is a convergence (a movement in a similar direction) in trends between the two countries (Troy, 1992). The trend toward de-unionization in the private sector (and thus convergence) is also statistically apparent in all other advanced

industrial economies as well (Galenson, 1994; Troy, 1990).

There was also convergence in the explosion of public sector unionism in both countries over the past several decades. But in this instance, Canada led and the U.S. lagged. Even though public sector union membership jumped in both countries, the rate of increase was insufficient to offset the decline in private sector unionism. As a result, the average market penetration fell in Canada and the U.S.

Another statistical issue is the official Canadian data on unionism in construction--they are clearly exaggerated. Thus, for Quebec in 1991 and 1992, the number of union members actually exceeds employment. The reasons are dual membership, seasonal employment, and how data are collected. There are parallel issues in some other industries, but they are not as egregious as in construction.

## **Outlook for North American unionism**

The factors which have driven private sector unionism down and public sector unionism up in both countries will continue into the next century. Thus, it can be anticipated that private sector unionism will decline in both countries. For the U.S., it could be expected that private sector union membership will drop from its 1994 level of 9.6 million to 8.4 million by 2001. Market share will probably drop to 7 percent of nonfarm employment, about the same as it was at the beginning of the 20th century.

### Sources

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