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RIGHT TO WORK LAW DEBATED

THE CASE FOR THE RIGHT TO WORK AMENDMENT

Joan Holdridge

One of the most controversial subjects of our day is the right to work amendment. Its opposition can be summarized under four heads: trick-titled, union security, economic progress and moral obligation.

If the charge that the proposed amendment is trick-titled is valid, then the U.S. Supreme Court is guilty of trickery, for in 1915 in Traux v. Raich, it held that "the right to work for a living in common occupations of the community is of the very essence of personal freedom."

The argument that approval of the right to work amendment would either cripple or destroy unions is refuted by the experience of the 18 states with such legislation as shown by statistics released by the Dept. of Labor. For, from 1932-1953, union membership in these states increased 192.1%, whereas in all other states the increase averaged only 187.8%, or 4.3% LESS than the states with right to work laws.

Judge Carter of the Nebraska Supreme Court in Hanson v. Union Pacific R.R. in discussing the "free rider" argument said: "An employee not only has a right to work, but he has the guaranteed right to have his earning protected against confiscation against his will. Forcing an employee to join a union to retain his job and then to compel him to financially support principles, projects, policies, or programs in which he does not believe and does not want, is clearly a taking of his property without due process."

A case in point is that of Cecil B. deMille who was suspended from his

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ARGUMENT AGAINST THE PROPOSED AMENDMENT POPULARLY KNOWN AS THE RIGHT TO WORK

Stephen J. Cahn

The proposed amendment to the Ohio Constitution would, if passed, impose a ban on any future union shop or agency shop clause in a negotiated bargaining contract.

The union shop is a contract provision requiring all members of the bargaining unit to join the representing union after a certain trial period, usually 30 days.

The agency shop is a contract provision requiring all members of the bargaining unit who do not wish to join the union to pay the equivalent of union dues as a bargaining fee to the union.

The bargaining unit is all the jobs covered by contract between management and the local union. The men holding these jobs may not necessarily be members of the union holding bargaining rights for this unit, nevertheless by the terms of the Taft-Hartley Act of 1947, the union is required to bargain for and represent non-members as well as members of the union as long as they belong to the bargaining unit.

The so-called "Right to Work" has been submitted to the State Legislature six times and each time was rejected. Notwithstanding this fact, a committee of "public minded citizens" has decided to bypass their elected representatives and by misrepresenting the issue involved have succeeded in putting this amendment on the ballot for a general referendum.

It is said by those in favor that union security deprives a man of his God given right to work. The facts are that nobody is deprived of any job by a union

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The Case for the Right to Work Amendment (continued from page 1)

union, the A.F.R.A., and consequently put off the air because he refused to contribute one dollar assessed by the union for support of a political purpose to which he was opposed. From 1944 to this day he has been unable to force his reinstatement in his union and thus been unable to produce a radio show. If this can happen to a man as prominent, powerful and wealthy as Mr. deMille, what chance has an ordinary worker to protect himself against abuse under compulsory unionism?

Opponents constantly stress that the working man has an obligation to belong to a union because every economic gain of modern times may be attributed to unionism. The fallacy of this argument appears when we note the tremendous increase in the standard of living of the ordinary working man in the first 35 years of this century when unionism was relatively weak and almost exclusively limited to the craft unions.

But, let a few more recent figures speak for themselves. According to the U.S. Dept. of Labor, the rate of increase in the number of persons employed from 1952-1957 averaged 9.77% in states having right to work laws, but only 5.82% in states permitting compulsory unionism. The rate of increase in average weekly earnings of production workers in the same period was 17.9% in those outlawing compulsory unionism, whereas the rate of increase in all other states averaged only 17.2%.

Nor have right to work laws increased labor-management strife. Studies conducted by the U.S. Dept. of Labor show that man days lost due to strikes or work stoppages declined an average of 30.9% in states having right to work laws during this period, while all other states showed a decrease of only 16.6%.

The authors of the C.I.O. book, The Case Against Right to Work Laws, said: "Productivity depends generally on a company's efficiency of production, on skills of the work force, the efficiency of machinery, the flow of work from one operation to another, and on managerial ability." Since productivity obviously is the main force in economic progress, the C.I.O. itself unwittingly admitted that unions cannot take sole credit for

the economic development of the worker.

The opponents of right to work legislation have recently made public a telegram by AFL-CIO President George Meany stating that "such leading groups as the Nat'l Catholic Welfare Conference, the Div. of Christian Life and Work of the Nat'l Council of Churches, and the Rabbinical Council of America have denounced right to work schemes as immoral." NONE of these groups has stated that right to work laws are immoral, while many religious leaders are openly supporting such legislation. Among these are Bishop Hazen G. Werner of the Methodist Church, the Reverend Peter Marshall, Presbyterian Minister and Chaplain of the U.S. Senate until his death in 1949, Father Edward A. Keller, C.S.C. of Notre Dame University, and many others.

Their thinking is perhaps best expressed by Father John E. Coogan, S.J., University of Detroit: "The stronger the union the better, provided it is a voluntary union grown strong through honorable, civic minded conduct, recognizing its responsibility to the employer, the general public and its own members."

Our own Democratic Senator Frank Lausche sums up the arguments in favor of the right to work amendment as follows: "I think the right to work in our country is just as sacred as the right to vote and the right to jury trial. I don't believe any organization in our country should be vested with the right and power to say to any American, 'You shall not work unless you join my organization.' That is to me the very antithesis of liberty as contemplated by the Constitution of the United States."

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**Argument Against the Proposed Amendment
Popularly Known as the Right to Work**
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shop. Under union security, it is the employer alone rather than the union who decides who to hire for the job. Then, after he is hired, the man joins the union as one and only one of the conditions of employment, and pays his fair share of the representation afforded him by the union.

It is said that union security is undemocratic. The facts are that union security is an expression of the democratic concept of majority rule. The union shop only operates where first a majority of the unit have voted for and decided upon it. Then they bargain with the employer in collective bargaining, and all parties must agree to include it in the contract, including the employer. Should the minority in an election of any kind be able to refuse to go along with the majority? Or should the minority by democratic means impress their point of view on the majority? A fact not generally known by the public is that the Taft-Hartley Act contains a provision whereby if 30% or more of the members of a bargaining unit desire it, an election will be held by the National Labor Relations Board by secret ballot to determine if the union still represents a majority of the unit. If it does not, then the union is decertified by the NLRB as the bargaining agent.

The amendment, if passed, will bar the union shop, the very type of contract clause which, when voted on in NLRB conducted elections, showed that those whom the clause vitally affects, the members of the bargaining units, voted overwhelmingly in favor of the union shop clause. The source of the following statistics is the Federal Bureau of Labor Statistics, and show results of elections held in Ohio.

Number of elections held.....	3,292
Number of elections authorizing union shop.....	(97%) 3,194
Percentage of persons affected voting for the union shop.....	88.3%

The results speak for themselves.

It is obvious that to properly run a union, as well as any other organization, requires money. This money is raised by dues, and the dues are set by a majority of the membership. If the union is to properly operate and represent its members, it must be assured of these dues. This takes the form of the union shop, the union security which the Right to Work would outlaw.

The fundamental aim of this law is to weaken free American Trade Unions by denying them their right to gain union security through the collective bargaining process. For those familiar with the trade union movement and the struggles of its members over the years, it is obvious that the passage of this bill would be a step backward which will eventually reach its culmination in the destruction of the trade union movement.



WALLY
THE
WALRUS

"The time has come the walrus said
To talk of many things:
Of shoes and ships and sealing wax,
Of cabbages and kings."

Wally's overheard conversation of the month: "Hey, I hear the new elevators will be ready in a week or so - that will be real nice, won't it?" "Yeah." "And that air conditioning sure came in handy during September." "Yeah." "What's the matter with you? Don't you appreciate the changes being made to the school?"

"I appreciate them as much as the next fellow, but if you ask me they're leaving out something important. About two weeks ago we had some of our family come in for a visit and one of the things they wanted to see was the school. It took me two days to get the courage to take them down, and even then I was tempted to drive by fast and tell them it was the county building. Why, there are factories in town better looking than the front of our school. The stairway

WALLY (continued from page 3)

walls look slummy. You know, I'm not the only person who feels that way; but I bet the next thing they do is put wall to wall carpeting in the faculty offices."

"Well, if you feel so strongly about the whole thing - and I think you're right - why don't you do something?"

"What am I supposed to do? You're a big boy now, you know you can't fight it."

"Yeah, that's right, I guess you either accept it or you can just quit."

So ends our overheard conversation of the month. Of the month? Nay, of the year, of the century. And how did it end? It ended with the national cry of the people, the most overworked cliché of our times, and blood brother, too: "But, what can I do?" Let's take a closer look and see if anything can be done.

The focal point seems to be that no one can do anything. Who can? Well, there's always some mythical Mr. Big, or you've just got to take it and that's all there is. But that's not true no matter where you apply it. If you have a complaint about school, for example, you have every right to voice it to the proper people. No one will bite you. Besides, I understand all the faculty have emergency rabies kits handy.

Now, we're speaking of legitimate complaints with constructive advice. Again, using the school as an example, if it isn't the job of the student body to criticize the faculty and everything concerned with the school, who is going to do it? Perhaps we can hire a firm of consultants to come in on alternate Mondays and do the job, but it would be only a duplication of effort, for there is plenty going on right now -- but no one will do anything because, of course, it's just no use.

Wally promises to sharpen his tusks on the next person he hears saying, "It's just no use." You know, people use the term "poor fish." I wonder what the term is that the fish use about people. There must be one, for at least a fish will fight and stand up for its rights.

Perhaps the best example of the "I can't do anything" doctrine can be found each year at election time. It's usually

something like, "Oh, my vote couldn't possibly be important."

This reminds the Old Walrus of an old story: Once upon a time a bright young man applied for a job. He seemed earnest and able and he was hired. The only thing to be settled was how much he was to be paid. In order to insure the pleasure of his employer he offered to work for only a penny the first day and this was to be doubled each day thereafter for thirty days. This seemed too good to be true to our employer and he accepted immediately. Do I have to continue? Within a few weeks our young hero's salary was hundreds of thousands of dollars, and going up each hour.

Moral: Each vote multiplies, each vote speaks, and soon each little vote which doesn't seem to count has the voice of a river on a rampage.

Next time, instead of giving up why not gather up some courage and take the problem to its source. For all those mentally or physically harmed, Wally promises complete sympathy and a swift kick, where it will do the most good, so that you will not give up.

In closing, the Tusky Tiger would say get off your knees and watch out for Filbert the Ghost.

CLASS NEWS

The students in section "B" of the freshman class have voted the annual Jankowski Award to Leonard Stein. The diminutive freshman has put in more time than any other in trying to look up Mr. Smith's Bibliography problems. When notified of the award Stein was still in a state of shock. From his friends we found that he attended Ohio State University, is married, and has two children. Our congratulations, Leonard, for doing so well.

PLEASE NOTE: The editor was just informed that each section of each class would have a class representative submit noteworthy news items for inclusion in each issue. As you will note from the above, this was the only item given the paper. Don't forget - all articles must be in by the last week of the month prior to the month of issue.

FRATERNITY NEWS

Fred Lick, "Clerk of Rolls"

Delta Theta Phi announced that the pledging of freshmen and upper classmen has come to an end for the fall term of 1958. The 23 newly nominated pledges will now be preparing for the pledging ceremonies which will take place Friday evening, November 7th. On Saturday afternoon, November 15th, the new pledges will be formally initiated into Delta Theta Phi Law Fraternity. The formal initiation will, as it has in the past, take place in Judge Kovachy's courtroom.

Those who attended the final smoker in preparation for final pledging week on October 17th were inspired by the informal speeches of Judge Arthur Day and Judge J. P. Corrigan.

A great deal of activity is being centered around the forthcoming dance, Saturday evening, November 15th. The dance will feature Lou Elgart's band along with the usual and plentiful supplies of refreshments and food. Even though costs have risen since last year, the price per couple will remain at \$5.00. The Alumni Senate of Delta Theta Phi, all students and faculty members of Cleveland-Marshall Law School are invited to attend this special affair. Any student or faculty member desiring tickets or further information regarding the dance, please contact Don Harrington at KE 1-5050, Extension 426, or KE 1-9480.

PROF'S ARTICLE SENT TO LAW DEANS

The school administration announced last week that Professor William Samore's article, "Are Evening Law Schools better than Day Schools?", will be sent to the deans of most law schools in the United States. Professor Samore's article originally appeared in our Law Review, Volume VII, No. 2, in May of this year. This action, it is hoped, will further nationwide recognition and acceptance of the desirability, need, and value of night law schools.

WE HAD HOPED THAT THE STUDENT BAR ASSOCIATION WOULD HAVE AN ARTICLE FOR THIS ISSUE, BUT TO NO AVAIL.

PROFILES ON PARADE

Leon Nagler

William K. Gardner - lawyer, professor, individual - was born June 25, 1838, in Gloster, Mississippi, and at an early age became a wanderer. Formal education lasted only until the age of sixteen, and this was relieved in a one-room schoolhouse whose proud possession was a stove pipe which would fall down when it became overheated. From here followed a string of odd jobs across the country ending as a "third rate night clerk in a fifth rate Shreveport Hotel."

At the age of seventeen came a three year enlistment in the army with thoughts of a permanent vocation as an officer. However, three years in the Philippines decided the issue of an army career. After the army, a period in the office of an automobile company and then the move to Cleveland and a position as clerk in the law office of George Eichelberger. After four years clerking and studying (Blackstone), the Ohio Bar Examination was successfully passed in 1914. For the next fifteen years, Prof. Gardner practiced with Mr. Eichelberger. Then he established his own practice. Finally in 1956, Prof. Gardner joined the faculty of Cleveland-Marshall, where in 1950 he received an honorary LL.M.

As a practicing attorney and teacher, Prof. Gardner has become a recognized authority on Ohio civil practice and procedural forms. He has written for Bobbs-Merrill since 1941, and was the editor for their Ohio Procedural Forms, and has written and edited other books in this general field. Currently, Prof. Gardner is working on a six-volume work, Gardner's Bates Ohio Civil Practice With Forms. The completion date is expected early in 1959.

On the side during last May and June, he taught five nights a week for a short period to enable the course schedule to work out smoothly - the normal load is three nights a week.

To recite facts is the easiest part of writing about a person; the difficult part is to give the readers an insight into a personal makeup of a man. Perhaps the best way to reveal the inner person of our subject could be through a simple analogy. For years the term "country doctor" has been enshrined as a symbol of something only one step less
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NATIONAL LEGAL AID CHANGES NAME

The word "Defender" has been added to the name of the National Legal Aid Association, Orison S. Marden, President, announced recently.

Mr. Marden said that the amendment to the Charter effecting the change of name was authorized by a unanimous vote of the Assembly of Delegates at the Annual Convention held in Pasadena in October. The name National Legal Aid and Defender Association became official October 15th by the filing of necessary papers in the District of Columbia.

In explaining the need for the change, Mr. Marden stated:

"The decision to include the noble word 'Defender' in our title was dictated by several reasons. The generic term 'Legal Aid' has always been thought to cover legal assistance to the poor in both civil and criminal matters. However, the almost universal use of 'Defender' in the title of organizations handling criminal cases, and the general public acceptance of the term, led some of the officers and directors to advocate the change so as to eliminate possible confusion by the public."

There are now in the United States 200 Legal Aid offices handling civil matters and 87 Public and Voluntary Defenders, Mr. Marden said. The National Legal Aid and Defender Association and the American Bar Association's Committee on Legal Aid Work are engaged in a promotional program that offers printed material and field visits by staff members to local bar associations interested in improving their legal services to the poor.

Profiles on Parade (continued from page 5)

than divine, a group endowed with every virtue, and always devoted to service of the community. If we take this revered position and reduce it to the mortal level, to the common man, and to a lawyer and teacher, we will find William K. Gardner. At this point it would not be quite simple to bring forth a string of trite platitudes and quickly end, but it would be a poor choice and unfair to Prof. Gardner, for

in addition to speaking to Prof. Gardner, as I gather information for this article, his colleagues were also questioned and each time with the same results. All initially spoke of his efforts as a lawyer, writer, and teacher but ended with a tribute to his honesty, sincerity, and sense of humor. One colleague went so far as to end by saying, "He's at times even too honest." Just a very nice person who is liked and admired by all with whom he comes in contact.

At the youthful age of seventy, Prof. Gardner has no thoughts of retirement and in addition to his work he is an active hobbyist. He has broken 100 on the golf course but admits to being more often on the other side. He fishes, swims, and is now enjoying the fruits of his labors from his vegetable garden.

The following two paragraphs extracted from Prof. Gardner's preface to his six volume work may well serve as a final summation:

"It is maintained by some that genius is merely the result of prodigious work and the expenditure of mental and physical endurance. To that extent only do I make claim to being one of her lineal descendants.

"Whatever measure of success has been achieved in this undertaking is due largely to the cheerful cooperation of Eleanor Gardner (related by affinity, in the first degree), and her skillful assistance on the mechanics of the work."

SONNETS FROM THE PORTUGUESE -- WHO DIDN'T WANT THEM - by I.N.Perr

There was a young gal from the coast
Who was raped one night by a ghost.
While no one said "fiction,"
The question was jurisdiction
And the status of forced rape - almost.

There was a young man named Slattery
Who visited a neighborhood cattery
When he thought he was typed
He drunkenly flipped
And ended with "assault and battery."

Tibet is a most peculiar nation.
Because women are by custom on ration.
Where women to men
Are but one to ten
And no crime is criminal conversation.