

THE RIGHT TO CHOOSE

BY HENRY HAZLITT



The Taft-Hartley Act was in origin an amendment of the Wagner Act. It modified a few of that law's worst provisions, but it kept some of the most harmful. It gives labor unions a privileged status enjoyed by no other private group. It forces employers to bargain exclusively with them, even when their demands are beyond all reason. It is hypocritical. It makes it "an unfair labor practice for an employer . . . by discrimination in regard to hire or tenure of employment or any term or condition of employment to *encourage or discourage* membership in any labor organization." And then, notwithstanding, it explicitly sanctions imposition of the compulsory union shop.

But it does, in Section 14(B), make one indirect concession to the individual worker's right to freedom of choice. That section provides: "Nothing in this Act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial Law."

Nineteen states have taken advantage of this to enact laws against making it compulsory for a man to join a union in order to hold his job.

COMPULSORY UNIONISM

Union leaders have fought an unceasing war against Section 14(B). So President Johnson, though as a congressman he voted for Taft-Hartley, and as a senator voted against repealing 14(B), and in 1960 supported Texas's right-to-work law, is now paying his 1964 election debt to the union leaders. He is asking for the repeal of 14(B).

He gives no argument for his request, except the vague "hope of reducing conflicts in our national labor policy," and he does not point out frankly that the effect of this repeal may be to force workers everywhere to join a union in order to hold a job.

The effect of compulsory union membership is to relieve unions of any need to make membership attractive to workers. As Prof. Sylvester Petro remarked in his book "Power Unlimited" (1959), which described

in detail the abuses of union power revealed before the McClellan subcommittee of the Senate: "The McClellan record reveals . . . that compulsory unionism is the principal cause of corruption and maladministration of unions; it draws into unions the kind of men who abuse union members, and takes from the members any real power to rid themselves of the looters."

FREE DECISION

The argument for keeping Section 14(B) is elementary. As former Rep. Fred A. Hartley, one of the sponsors of the Taft-Hartley Act, put it: right-to-work laws "guarantee a worker's right to join a union"; but also "his right to stay out of a union if he wants to—and I say what's wrong with that?" As the Committee for Economic Development also recently summarized the case: "The controlling principle should be the right of an individual to decide freely to belong or not to belong to a union."

The proposed repeal of Section 14(B) is a naked grab for more power by the union bosses. There is only one argument for it that deserves intellectual respect. This is the argument for "freedom of contract." That argument holds that the law ought not to prohibit a "voluntary" agreement between a union and an employer requiring compulsory union membership; that union membership as a basis of continued employment should be neither required by law nor forbidden by law.

But in the mouths of union leaders this argument is insincere and hypocritical. They insist on the retention in the Taft-Hartley Act of the prohibition of the so-called "yellow-dog" contract—a contract in which a worker agrees as a condition of employment that he will *not* join a union. Union leaders who insist on legalizing compulsory union membership should be willing to legalize compulsory *non*-union membership. But as long as they are not willing to do that, they have no right to use the freedom-of-contract argument. Meanwhile, also, opponents of compulsory unionism do have a right to demand the repeal in the Taft-Hartley Act of the provisions sanctioning imposition of the compulsory union shop.