

**Pennsylvania House Labor and Industry  
Right to Work Hearings**

August 16, 2011

Good Afternoon,

On behalf of the Board of Directors and the members of the Berks County Patriots I thank you for the opportunity to give testimony with regard to the Right to Work issue that has the unanimous support of our organization.

My name is Rodney Miller and I am the Vice Chairman and Legislative Chairman and am here today to offer testimony on behalf of the membership.

May I first say I forwarded a resolution to the committee chairman that our members recently approved unanimously in support of HB 50, 51, 52, 53 at a general membership meeting attended by over 400 of our Patriots. Following that approval, the officers hand delivered a copy to all twenty five members of the House L&I Committee with a cover letter and a self addressed and stamped postcard simply asking them to indicate their position on the four bills. Although it would have required only a moment of their time, it was disappointing to only have four returned to us.

I am here today to follow up on that resolution with some history of Right to Work and, to explain the disadvantages to our state's wage earners because ours is not a Right to Work state.

I would pose the question, why should these hearings and bills even be necessary?

Art 1, section 1 of Pennsylvania's constitution states, in part, **"All men are born equally free and independent and have certain inherent and inalienable rights among which are possessing property and pursuing their own happiness"**. Section 26 of that article states, in part **"Neither the Commonwealth nor any political subdivision shall deny to any person the enjoyment of any civil right"**.

The 1903 Pennsylvania Supreme Court decision of Erdman vs. Mitchell, 207 Pa. 79 (1903) held that **“Under the declaration of rights of the constitution of Pennsylvania, the rights of a workman to the free use of his hands is a right which neither the legislature or a trade union can take from him, and one which it is the bounded duty of the courts to protect.”**

Despite this finding, the Wagner Act, passed in 1935 - Section 8(3) allowed for **“agreements” between employers and officers of a union requiring union membership “as a condition of employment” if the union was certified or recognized as the employees’ “exclusive” bargaining agent on matters of pay, benefits, and work rules.** This was clearly a violation of states’ sovereignty as outlined in the Tenth Amendment of the US Constitution, and of workers’ rights as defined in the Pennsylvania’s Constitution.

With a stroke of the pen our rights seemed to vanish – another example of the ongoing nationalization of states’ sovereignty. Instead of objecting or even nullifying the Wagner Act, Pennsylvania’s Legislature acceded to this federal legislation. The Wagner Act was followed in 1947 by the Taft-Hartley Act, which granted employees the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the **right to refrain** from any and all such activities.

Had it ended there forced union membership would have been prohibited. But it continued stating.....**except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 158(a)(3) of this title.**

That’s how we find ourselves today, seeking a law that returns an individual and states right that could never have been denied in the first place. The Berks County Patriots is dedicated to working towards the return of respect for our constitutions – both state and federal. In addition every one of our State Senators and Representatives takes an oath to support, obey and defend the Constitution of the Commonwealth of

Pennsylvania so we should all be on the same side of the issue. I am here today to say that our Board of Directors and the membership unanimously supports a Right to Work law. It's the right thing to do. It's the moral thing to do. It's the constitutional thing to do.

On a personal level, in 1968, I was employed as a contract employee by an engineering firm, when the employees voted to be exclusively represented by the UAW. That union gave the company an ultimatum. Either I was to be fired, or I had to become a union member or there would be a strike. Having no immediate job prospects, I joined under protest. I signed the membership card under written protest, and sent letters to Republican Governor Shafer, and Republican Senators Schweiker and Scott. Their responses were all pretty much the same telling me to get over it; in that we are not a Right to Work state.

Soon thereafter the UAW organized a bus caravan to Philadelphia to rally for presidential candidate Eugene McCarthy. My compulsory union dues went to support a candidate not of my choice! I immediately sought help from attorneys from the National Right to Work Committee. There is now a Beck Law which prohibits unions from using dues for political purposes without the permission of the member. I cite that case as an example of how difficult it is to fight the system. Incidentally, had I not accepted a position with another company soon after being forced to join the UAW, that law would have probably been known as the Miller Law -- A law which would never have been necessary had there been a national Right to Work law. And ironically, the company I left -- Leeds Northrop -- is no longer in business. Was that a union success story?

Following that I spent 37 years as a volunteer on the board of directors of PA Right to Work Committee, retiring from the board in 2005 as a vice president. During those years I've heard every egregious story that can be told regarding compulsory membership in a union. And in all those years, I've seen cosponsors of Right to Work legislation come and go, but never, irrespective of which party had control of all three

branches, has there ever been a Right to Work bill brought to the floor for an up or down vote.

I've limited my testimony to focus on individual and states' rights as provided by both the US and Pennsylvania Constitutions. I could address the economic consequences of Pennsylvania's failure to join the twenty two other states in passing a Right to Work law, and the fact that Pennsylvania is in the bottom ten of all fifty states economically, but I trust there are business people that have or will address those issues.

I am encouraging this committee, following these hearings, to vote these bills out of committee, get them on the floor, let's have the debate and let's have the vote. We are way overdue in learning who believes the workers of Pennsylvania have a constitutional right to seek employment and provide for one's family without being coerced to belong to or support a private organization.

Does workers' rights trump union demands?

Thank you for your time and thank you for the opportunity to testify. I will respond to any questions?

Respectfully submitted,

Rodney Miller  
Berks County Patriots, Vice Chairman

# **Berks County Patriots**

## **Resolution 4212011-1**

### **Right to Work**

#### **Background**

**In its American sense, the term signifies man's inherent right with the opportunity to seek and retain gainful employment which he desires based on qualifications. This right need be unfettered by biased restrictions or conditions. Being compelled to belong to any private organization including a labor union as a condition of employment is inconsistent with the fundamental and traditional American values of liberty and freedom of choice. Employees should have the right to form and join private organizations such as a labor union and the concomitant right to abstain from membership and from making any agency shop or fair share payment without compromising ones right to gainful employment. Denying this right is contrary to basis on which our Republic was founded. When weighing individual liberty against the authority of the organization, the rights of the individual must prevail.**

**Ref: Pennsylvania Supreme Court case opinion, Erdman vs. Michell, 207 Pa. 79, 80 and 91-92 (1903 ), concerning Article I. This case opinion specifically refers to Article I, sections 1 and 25 of the Pennsylvania Constitution (citizen's inherent rights).**

**Beyond the guarantees of fundamental liberties, Pennsylvania citizens are at a competitive disadvantage with Right to Work states when competing for skilled labor and industry. Corporations and workers are fleeing our state for other areas with a more reasonable business climate.**

**It doesn't make sense to spend millions of dollars on education of our children and then have them move out of state because they cannot find employment due to lack of industry in the state.**

**Finally, numerous independent surveys have clearly revealed that the overwhelming majority of Pennsylvania's residents support a Right to Work statute in our Commonwealth, confirming that its passage is long overdue. Therefore,**

#### **Resolution:**

**Be it resolved that the Berks County Patriots join with tea party organizations across the Commonwealth and petition the Pennsylvania Legislature to enact PA House Bill's 50(Right to Work), 51, 52, 53(Fair Share Dues Protection for teachers and public employees).**

**Further, that this resolution be forwarded to all members of the Pennsylvania House of Representatives and Senate.**

**Berks County Patriots, 1,000 plus members**

**James Billman, Chairman**

**Rodney E. Miller, Legislative Research Chairman**