CRC CAPITAL RESEARCH CENTER

Labor Watch

Time for a RAISE: An Interview with James Sherk

By Kate Knable

Summary: *James Sherk, the Bradley Fellow in Labor Policy at the Heritage Foundation, has proposed an innovative public policy idea that allows unionized companies to pay individual employees higher wages than union contracts allow. Members of Congress have introduced a bill embodying Sherk's idea to reward successful employees. If passed, the proposed RAISE Act would give employees added incentives to be productive. It could also transform employer-employee relations and challenge the monopoly power of labor unions. CRC Haller Summer Fellow Kate Knable spoke with Sherk at his office at the Heritage Foundation in July about the RAISE Act, the Great Depression, and the U.S. labor market today.*

Labor Watch (LW): What is the RAISE Act?

James Sherk: The RAISE Act is an acronym that stands for Rewarding Achievement and Incentivizing Successful Employees. The bill is being introduced in the Senate by Senator David Vitter of Louisiana and in the House by Representative Tom McClintock of California.

LW: How many co-sponsors does the bill have?

Sherk: Seven co-sponsors in the Senate and I believe 15 or 16 co-sponsors total in the House.

LW: What would it do?

Sherk: Currently under federal law, unions do not set just a minimum wage for their workers, but they also set a maximum wage. If you work for a union, your employer cannot pay you more than the union contract calls for without negotiating with the union. Who you are as an individual, your contributions on the job, count for nothing unless the unions negotiate contracts that allow for more and it's very rare that they do that. Only about 10 percent or so of unionized companies allow merit pay. At the other 90 percent you'll all get the same -- the hard worker, the industrious worker gets the same seniority-based rates as the guy who's putting in 8 hours on the clock but really only putting in 4 hours of work a day.

What the RAISE Act does is it addresses this. It allows companies to pay individual workers higher wages than the union contract without negotiating with the union. You couldn't pay any less. Whatever the union's negotiated is still going to be the wage floor, but there's no longer going to be a wage ceiling.

LW: Couldn't that discretion be abused by companies?

Sherk: There's restrictions in there so that you can't simply say, "Okay, Joe, you don't like the union, here's a $500 bonus." You can't give out the raises on the basis of not liking the union or anything other than your performance as an employee. But it allows companies to reward hard work and to incentivize workers who work harder. Economic research shows that if you pay people for working harder, they work harder. They become more productive, the company has higher profits, they get higher wages. It's a win-win-win all the way around.

LW: What workers would this legislation affect?

Sherk: It would only cover workers in the private sector and it would only cover workers affected by the National Labor Relations Act, so if you're in an airline, or if you're in a railroad, they're covered by the Railway Labor Act—it wouldn't affect them at all. But it would affect about 8 million workers in the private sector.

Economists have looked in great detail at how workers respond to performance pay and things like merit bonuses and merit raises and—shock of shocks—workers work harder when they get paid more for working harder. The typical worker's earnings rise between 6 and 10 percent a year in the presence of performance pay.

So, at the companies that start offering performance pay under the RAISE Act to incentivize better performance, the typical union member, the median union member, earns about $43,000 a year. That would mean between a $2,600 and $4,300 a year increase in pay because they're working harder. That's not something they're reaping from shareholders, and that's not something that's coming out of higher prices; they've worked hard, they are more productive, the company had more money coming in and that's how they get paid that extra money. It's creating wealth instead of fighting over how to redistribute wealth.

LW: What inspired you to propose the idea?

Sherk: It's a very strange feature of American labor law that unions can put a cap on what their workers earn—that they can say "no" on your behalf: "No, I really don't want this bonus," "No, I don't want this merit raise." In other countries, like in New Zealand or Australia or the United Kingdom, which have labor movements just as we do, unions don't have that power. They're not allowed to veto what workers are getting.

And it's something that's tremendously unpopular with workers. It's exhibit A in any organizing campaign that employers will call their top achievers aside and say, "You're only going to get the average rate if we get a union. I can't continue to give to give you the same performance pay." It's something that's tremendously unpopular with workers who want to get it.

It's against the American dream. Ask anyone, "What is the American dream?" It's: you work hard, you get ahead, you're not going to be guaranteed success, but nobody's going to stand in your way and hold you back and say, "no, no, no."

LW: Sounds like you speak from personal experience.

Sherk: My dad's trying to start up a company -- his third company so far. It's exciting to see him being entrepreneurial like that. We're immigrants to this country. We came from Canada and there's just a lot more opportunity here than there is even in a relatively free economy like Canada's. People aren't going to put limits on you.

I've also worked in those low-skill, low-wage jobs that really aren't that fun. And you do have great paths for people to get ahead and get jobs that utilize their full potential. I've seen both ends of the labor market and it's tremendously more rewarding to work in an environment where your initiative and your skills, your individuality count. I want to work towards an economy where we can create more of those things.

LW: Do you think the RAISE Act has any chance of passing in this Congress?

Sherk: There's a decent chance that in the Senate you'll get a vote on it, since you can offer amendments in the Senate. Organized labor will probably tell the Democrats that they don't support this, and I suspect that labor will put very strong pressure on the majority party to vote it down.

It's more likely that it's not going to get passed but it's the principle of the thing. Very few people are aware that there's actually a maximum wage and you can't earn above that. It's good to call that to people's attention and to force the other side to defend workers getting less. Once people become aware of this it becomes embarrassing, and then you create the political climate where it becomes unpopular, where it becomes a losing issue to stand in favor of a wage gap affecting millions of blue collar working Americans.

LW: Why would unions oppose this?

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Sherk: Labor unions are concerned that it's going to weaken their attractiveness to top performers. If you're more than willing to work for a unionized company, but you're getting $30 an hour and the contract calls for $20 an hour, why are you paying union dues? You know the company's not going to lay you off if they value you that much. Why are you giving 2 percent of your salary over to someone to negotiate wages lower than what you could get now? So the RAISE Act would relieve a bit of the pressure--those workers who are chafing at being held back can now get paid more.

But unions are all about the collective, the group reward. Well, hard-working workers could get paid more than the collective can negotiate. Why do they want to be in a union? What's the value of that? The AFL-CIO does not want workers to ask that question. They want workers to simply look at their paycheck and assume that whatever they've got they've got because of the union, not because of their own hard work.

LW: How different would American organized labor look without wage ceilings?

Sherk: Take a look at foreign countries. What you're going to see is that there'll be less of the homogeneity, less of everyone being treated exactly the same. The workers would be rewarded more on their skills—so you'd have, within the union, the best performers would be getting paid more.

Currently, top performers just won't work at a unionized firm because they don't want to be held back. So they'll go and work for a non-union competitor or work in another industry where there is no wage ceiling. Unionized firms have an incredibly tough time attracting the best talent. You'd start to see more of those workers coming back into the unionized firms if the firm can say, "Okay, the union rate is $50,000 a year, but we're going to pay you $75,000 a year because you're just that good." So you'd have different workers joining union firms and then, within the firm, there'd be more of a recognition that it's your effort, it's your work, it's your value that contributes.

LW: Who is attracted to union membership these days?

Sherk: Increasingly, not many workers. You take a poll of non-union workers and you're only going to get about 10 percent say they want to join a union or have any interest in joining a union. Another 80 percent or so say no, they definitely don't, and about 10 percent are undecided. Unions don't fit in very well in the modern economy.

You want to have the option so that if a boss is a complete jerk and abuses his workers, then the workers can organize. Outside of those circumstances, unions really don't add much in value to the modern worker. Twelve percent of the population overall is in unions, and about half of that is in the private sector, and half is in the public sector.

LW: If the RAISE Act were passed, would it damage unions permanently or make them more appealing?

Sherk: I don't think either. It's not as though if you pass this bill that the days of the union movement are numbered. That's simply not the case. You look at the United Kingdom, you look at New Zealand, you look at the countries that allow this and they've certainly got strong labor movements. I wouldn't say there is some cause and effect, but it's by no means true that if you pass this one bill labor unions will cease to exist. But it weakens their hold over their members. It gives workers more of a connection between the work they're doing and the pay they receive, which makes the union less attractive—which it already is now for most workers.

Workers want to be valued not as cogs in a machine, not as just one sort of automaton on the assembly line doing the same job anyone else can do. They want to show initiative. You bring your talents and skills to the job, you bring your own perspective and you make a unique contribution on the job. It's not the same economy as a generation ago.

This modifies labor law to be more in line with a modern economy, but it's not very good for general representation by labor unions. You've got 50 workers with unique skills—why would they want to have one representative negotiating the same contract for them on the bargaining table? It doesn't make much sense.

To the extent that you bring labor law into the twenty-first century in the constructive sense, unions have not modernized. They have not modernized since the 1950s. They're still using the same model of the economies back then and, to the extent that you change the law to reflect modern times, it makes their model less and less relevant.

LW: Last September you wrote that U.S. job security has gradually improved in recent years. You said the reason unemployment is going up is not because people are losing their jobs but because new workers are entering the labor force and not finding jobs. How much is this still the case?

It's true with the caveat that everything changes with the business cycle. This is a nasty recession. "Nasty" is an understatement by far. Following this over the business cycle, before the downturn last year, workers were significantly less likely to be laid off than they were during comparably good economic times a generation ago. And, while it's not all in yet for the current downturn, when it is, I suspect what we're going to see—layoffs have gone up—but I suspect that what we're going to see that workers are still less likely to be laid off today than they were, say, in the depths of the 1982 recession.

It's not a point that you can make very well today because, of course, layoffs have gone up relative to what they were 3 years ago. But relative to the severe recessions of the 1970s and 1980s, it looks like workers are more likely to voluntarily leave their job, less likely to involuntarily leave their job. But, again, at a time when layoffs and firings are going up, that's not the easiest point to make.

LW: Is that because people change jobs regularly of their own accord?

Sherk: That's exactly it. Workers are much more likely to voluntarily switch jobs. In large part that's due to the changes in the pension laws. A generation ago, if you had a pension, it was going to be a defined-benefit pension. And the way the pensions were set up is that you'd actually be severely penalized if you switched employers. You'd lose a lot of your pension benefits. Especially if you're in your 50s, you'd have these golden handcuffs chaining you to your employer. There'd be another company you'd rather work for, but you're not going to give up 15 to 20 percent of your pension benefits. So you're just stuck there.

But now the defined benefit is going the way of the dinosaur and it's all 401(k)s now. Now that we've got that, it doesn't really matter. You've got $50,000 in your 401(k) account and you're in your 30s, you take the vested part of your account with you when you go to your new employer and he starts putting money into that 401(k). And there's no disincentive to switch, and so workers with pensions are a lot more mobile now than they were before. And that's a good thing. You want workers working at the company that best matches their individual skills for the unique needs of the company. And if you're getting rid of barriers to workers going to where their skills are most of value, that's a good thing.

LW: According to your May Jobs Report, the number of jobs continue to decline, but "wages have continued to rise modestly." How do you explain this seemingly contradictory finding?

Sherk: Because workers are extremely reluctant to accept a pay cut, and so typically what companies will do, rather than give everyone in a company a 5 percent or a 10 percent pay cut, they might freeze bonuses or raises. But they're more likely to identify the more marginal employees or the employees who aren't contributing as much and lay them off, while keeping everyone else at the same level. It hurts the morale of the entire company if you give everyone a pay cut, including the most deserving. Whereas if you lay off employees at either the branches that aren't performing as well or the divisions that aren't sustainable right now, it obviously hurts them, but it reassures the employees who still have their jobs that they're not going to be next.

In most cases, companies choose layoffs to cut costs rather than impose a broad-based pay cut. And so that's why when companies are making less, employees who are employed and doing well can still earn a raise. Now, the pay increases are down somewhat from what they were before, and hours are falling, but it's the case that companies would rather lay people off than order a broad-based pay cut.

LW: You recently wrote the paper "What Unions Do." Who benefits from unionization? Who is harmed by it?

Sherk: Unions are cartels. Cartels are designed to benefit their members at the expense of everyone else. Unions ideally want to raise the wages of their members by raising the prices that companies charge consumers. Consider General Motors. It costs them about $2,000 more to produce a car than it costs Honda and Toyota. In a world without Honda and Toyota, you'd have the United Auto Workers getting $70 an hour in wages and benefits for its members and Ford, Chrysler, and GM all charging $2,000 more for the vehicles they produce, which they pass along to consumers. Every person who buys a car pays more money for it. Everyone's paid $2,000 more from their pockets and probably more after you take into account financing charges—because you're probably not just writing a $25,000 check for your car. So some people will say, "I can't afford this. It's just too much."

The problem unions now have is that the economy's become much more competitive than a generation or two ago, and unions can't force companies to pass on the costs anymore. At least in most industries they can't do it anymore. Competition means that the union can't get above-market wages and force consumers to pay more. Whenever consumers have a choice, the union monopoly breaks down. Workers who join unions today by and large do not see their wages go up.

Where unions do have an enormous effect is in the public sector because there's no competition for government. It's very difficult for you to choose from whom you hire government services. So in the public sector, the unions push quite hard for higher taxes to fund higher wages for their members. So it's interesting what we're seeing now—look who is pushing the hardest for tax increases in the public sector during a recession in places like Chicago and Cook County. It's the public sector unions. Government employees are going to be the ones who will benefit the most from unions at the expense of everyone who doesn't work for the government but pays for it in taxes.

LW: Do you think unions help people who might struggle to find a good paying job, or do they hinder workers more than they help them?

Sherk: Unions have long been a self-interested special interest. Take a look at the 1954 movie *On the Waterfront*, a major Hollywood film about corruption within the labor movement. In 1947 Congress passed a ban on secondary boycotts. What's a secondary boycott? It's where a union takes action against a company that does business with another company that the union's trying to organize. The union tries to get the second company to withdraw its business from the company the union is trying to organize.

Basically, the unions say we're going to take away all your customers and you're going to lose all your jobs unless you unionize. We're going to put this enormous economic pressure on you. That's not in the interest of the workers. That's the union putting a gun to the head of the employees and not just to the head of the employers. It's saying, "You're going to pay our union dues or else you lose your jobs. It's us or no one." Again, it's very selfish; it's very greedy.

LW: So unions have always hindered workers?

Sherk: There was a role for unions in the manufacturing economy. There's value in seeing to it that the dignity of workers is protected and that management doesn't treat workers as cogs in a machine. But we're moving so far away from that economy. Manufacturing has fallen by about half in terms of its share in the economy. Unionized companies don't invest as much in capital, in research and development, in the future.

The union, in a sense, is threatening to tax any profits that companies make. Take General Motors—the unions want $70 an hour in wages and benefits. If GM invented an electric car that got 10,000 miles before you have to plug it in again, that would be enormously profitable and the union would not be making concessions. They'd be demanding $150 an hour in wages and benefits. Unions have always been bad for their host companies. Increasingly, the concept of group representation is just out of touch with what motivates workers in the 21st century.

Computers can automate many routine tasks. You don't need a worker standing on the assembly line putting widget A onto widget B every minute of every hour for 8 hours per day, and then going home. Isn't it great that people don't have to do those jobs anymore? The reason the UAW negotiated the 30-year-and-out contracts -- retirement at 30 years -- is because workers hated their jobs. They hated them. That's why they sent their kids to college. It's because they didn't like their jobs and they wanted to see to it that their kids had a better job than they did.

LW: When you look at *The Grapes of Wrath* era, were the unions coming to rescue the common man?

Sherk: A lot of the policies that the unions pushed prolonged and extended the Great Depression. It was by no means just unions but serious economic research shows that the National Labor Relationship Act and other Roosevelt policies promoted cartels. Federal policy told businesses, "You're allowed to collude together and raise the price of goods and produce fewer of them but only if you also have a union and you pay higher wages to the union members." Of course, that makes goods more expensive and consumers buy less of them. But this was the policy of cartelization—and it explains part of the reason for the Great Depression.

Cartels are not good for the economy. Unions are a labor cartel and they're no different from, say, OPEC, which cuts back on the amount of oil their members export in order to raise the cost to consumers. It can be good for OPEC under some circumstances, but it's definitely bad for consumers and it's bad for the economy overall. Unions want to be a monopoly. Sometimes they manage to present a more sympathetic public face than OPEC or some rich industrialist. Still, at the end of the day, they produce the same harmful economic effects. This was one of the key policy mistakes Roosevelt made that turned the Great Depression into the Great Depression.

LW: Why did you decide to work at the Heritage Foundation doing labor economics?

Sherk: I graduated from Hillsdale College. I was a Heritage intern in the summer of 2003 and I just loved working here. I'm fighting for a vision of America that I believe in. And so I left the internship feeling extremely positive about it. I got a master's degree in economics at the University of Rochester. I applied to work here after I earned my degree they were good enough to hire me. I love the mission, I love the fact that I get to work every day to make the country a better place.

In a lot of these cases, it's fairly clear that you have large and powerful special interests who talk as though they want to support what's good for the common man, but really they don't. Unions are not even always concerned with the well-being of their members. When you've got a conflict between the union's well-being -- the organizational interests -- and the interests of their members, the union's organizational interest always wins.

Is it actually better for workers that they have a pay cap in place on them in order to make them more loyal to the union? No, of course not. Workers who are taking that $3,000 to $4000 pay cut are not better off at all. But it's a whole lot better for the union because they've got a lot less concern about workers trying to de-certify the union or trying to withhold their union dues. Having that institutional loyalty there is quite beneficial to the union. And so they support it at the expense of the workers' pay. That is outrageous, and I get to fight against it.

LW: How do you think your work is important to other people?

Sherk: You'll talk to people and they'll say that they've used your research, and it's gratifying. It's hard to know to the full extent, but I'm fighting for public policies that will make America a better place, so even if people don't recognize that I succeed, it'll be an economy where there's more opportunity, where the special interest will have less power to take from those who aren't privileged and connected and redirect it to their own members who have the political sway. So hopefully I'll be able to offer a lot of benefit to people who don't even realize why it's the case.

Kate Knable, a recent graduate of Cedarville University, was a 2009 Haller Summer Fellow at Capital Research Center. Her journalism has also appeared in the Palladium-Item, a Gannett newspaper.

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LaborNotes

On August 5, police arrested 10 officers and contractors of the **New York District Council of Carpenters and Joiners of America** on a 29-count indictment that include bribery, racketeering, and perjury. The indictment charges that for about $1 million in bribes, union officers looked the other way as contractors cheated union members out of millions of dollars by allowing workers to be paid under the table and working around other union contract rules. The indictment could be politically damaging. According to the **New York Times**, prosecutors made available a video clip "showing **Michael J. Forde**, the district council's executive secretary-treasurer, who is now indicted, giving [New York Mayor **Michael Bloomberg**] a rousing introduction at a union event and sealing his support for Mr. Bloomberg with a hug."

In July, key Democrats in the U.S. Senate leaked word that they would remove the card check part of the **Employee Free Choice Act** to get the bill passed. Card check would effectively replace private ballot unionization elections with public, pressure-prone sign ups. A stripped down bill would still require federal mandatory binding arbitration for first contracts and brief "snap" elections. **Roll Call** reported that Senate Majority Leader **Harry Reid** "is sketching a process for railroading the bill through the floor as quickly as possible to prevent Republicans from rallying a major campaign against it."

But first, healthcare. EFCA is likely to be delayed until healthcare reform is resolved in the Senate, and that could take a while. In August, the **Drudge Report** linked to an explosive video of **Barack Obama** speaking at an **AFL-CIO** conference in 2003. "I happen to be a proponent of single payer universal healthcare," the younger Obama said to the union faithful. "But as all of you know, we may not get there immediately. Because first we've got to take back the White House, then we've got to take back the Senate, then we've got to take back the House."

At the **National Education Association'**s annual convention, retiring general counsel **Bob Chanin** asked rhetorically why "these conservatives and right wing bastards" are "picking on the NEA." Answer: "Because we have power, and we have power because there are more than 3.2 million people who are wiling to pay us hundreds of millions of dollars in dues every year." Eagle Forum president **Phyllis Schlafly** pointed out that the union "would have a small fraction of its power and bank account if it had to depend on teachers 'willing to pay' dues." In fact, "Many of the NEA's contracts require school districts to promptly fire any teacher who fails to pay dues."

NEA's sister union **American Federation of Teachers** may have plenty of new dues paying members soon. The union has started the big push to unionize charter schools, and has met success in Los Angeles, New York, and Baltimore. Next stop: Chicago. AFT president **Randi Weingarten** predicted, "You're going to see far more union representation in charter schools." That could be a problem because overcoming rigid union work rules is one of the reasons why charter schools were created.

How bad is the job market? Pretty bad when the loss of 247,000 net jobs for July is hailed as "good news."