

Labor in Focus by Laurence Sherman

Union-busting by the courts

If a recent Appeals Court decision stands, the "right-to-work" agitators will have had their dreams come true.

In a decision which will subject labor leaders to potentially massive legal penalties for union organizing activity, the Ninth Circuit Court of Appeals last month ruled that the Racketeer Influenced and Corrupt Organizations Act (RICO) can now be used to prosecute actions otherwise reserved for state criminal jurisdiction.

In its decision, the Ninth Circuit reinstated indictments dismissed by the U.S. District Court against five Teamster leaders. The indictments were brought by the Los Angeles Organized Crime Strike Force of the Justice Department on Nov. 20, 1979, against union officials from IBT locals 389 and 186 who were engaged in an organizing drive at a moving and storage company in Thousand Oaks, California.

If the implications of the court's decision are drawn out to their logical conclusions, a fist fight on a picket line during a legitimate union strike could become the subject of a RICO indictment with possible 20-year jail sentences for each RICO count.

Coming at a time when leading unions like the Teamsters and Laborers International are under prejudicial attack by the Justice Department networks associated with "postindustrial society" economic policies—to which such unions are firm obstacles—the court decision amounts to a legalization of what heretofore has been strictly a Jus-

tice Department frameup campaign against union leaders.

Before the court's decision, picket line violence, for example, if it occurred during a legitimate labor organizing campaign or a strike, was reserved to the states for prosecution. The Supreme Court ruled on this specifically in 1973 (*U.S. v. Enmons*), finding that "even if the language and history of the Hobbs Act were less clear than we have found them to be, the act could not properly be expanded" to cover what is otherwise a matter for state criminal prosecutions.

The Hobbs Act, aimed at prosecuting extortion, does not cover union violence during a legal strike, the Supreme Court found, because Congress did not intend "to put the federal government in the business of policing the orderly conduct of states."

When Justice officials of the Los Angeles Strike Force sought indictments against Teamster leaders under RICO, they were determined to circumvent this explicit body of judicial opinion. Their indictments, accordingly, were thrown out by District Court Judge Takasugi. By reinstating the indictments, the Ninth Circuit has accepted the Strike Force's position: RICO can be used to bust unions, where the Hobbs Act cannot be.

By this decision, the Ninth Circuit Court of Appeals accomplished in one stroke what the Na-

tional Right to Work Committee had only dimly hoped to achieve through a campaign to revise and expand the Hobbs Act. In a letter dated March 10, 1981, the president of the notorious antilabor organization, Reed Larson, attacked the Supreme Court's *Enmons* decision and issued the battle cry: "We can stop union terrorism in America if we act now."

Instead, the Ninth Circuit Court of Appeals has acted for them.

Some businessmen looking to shave labor costs and others who are similarly lacking brains may applaud the Ninth Circuit's decision. Why that is stupid is exemplified by the history of the number-one target of the Justice Department's RICO indictments, the Teamsters.

Jimmy Hoffa and other Teamster leaders—including currently indicted leader Roy Williams—did not build the union against the trucking industry. During the 1930s and 1940s, they built the union by building the trucking industry, introducing a "master freight-contract" that introduced informal regulation where before there had been only cutthroat competition. The Teamsters saved many a trucking firm by permitting temporary pay differentials until a struggling new or troubled company was on its feet and able to turn a profit—making sure, in that fashion, that transportation prospered everywhere that it was needed. In that way, they helped build the industrial power of the entire nation through efficient and reliable transportation. Industrialists have prospered because of the Teamsters trade union—and then, the Teamsters made sure that their members got a piece of the prosperity.