1R


# labor newsletter

October 1974 National Lawyers Guild Issue #11


# Puerto Rican Union wins Jury Trial

# GUILD FILES AMICUS

*Workers at Construcciones Werl in Mayaguez (Photo SEC from Claridad)*

*by Claudia Conway and Kathleen Weremiuk members of the Labor Committee of the Boston Chapter of the National Lawyers Guild*

On August 14, 1974 the U.S. Court of Appeals for the First Circuit in Union Nacional de Trabajadores (No. 74-1073) upheld the right of workers to a trial by jury in cases of criminal contempt growing out of violations of injunctions issued under United States' laws in labor disputes. In making its decision the court relied heavily on an amicus brief submitted on behalf of the Union Nacional by the National Lawyers Guild.

The Union Nacional de Trabajadores (UNT) was formed three years ago. It was originally based in the construction industry but when the construction industry seriously declined, the UNT began organizing service workers and it now primarily represents service workers in the petrochemical industry (a strategic sector of the work force which was previously unorganized). UNT President Arturo Grant and Secretary-Treasurer Ramades Cepeda are members of the central committee of the Puerto Rican Socialist Party.

The UNT is one of thirty-five member unions in the National Labor Movement (NLM). The NLM, formed to "function as a vehicle for unity and an instrument of struggle for all Puerto Rican workers", represents workers in all sectors with a concentration in utilities and petro-chemicals. While the

*Continued on page 2.*

# Jury Trial

*Continued from page 1.*

NLM member unions are not unified politically (only six unions have Puerto Rican Socialist Party leadership, only twelve are pro-independence), the NLM has created a general strike fund, fostered militant strike support among NLM member unions (supplying 1,000 pickets per day for the El Mondo strike), increased militant trade union consciousness and unified the labor movement significantly in its three year history.

While the UNT is a small union, it is important in the Puerto Rican labor movement and the NLM. With a militant rank and file and under the leadership of Grant and Cepeda, the UNT has taken a vanguard role in the political and economic struggles of the working class in Puerto Rico. It is pro-independence. It has fought both the superport and strip mining. It conducts militant strikes and supports other workers' strikes. It has led a campaign to get the National Labor Relations Board out of Puerto Rico. Reflecting the Puerto Rican Socialist Party strategy of building unions from both the top and bottom, the willingness of UNT leadership to take up political issues on behalf of workers has pushed other union leaders to do the same and UNT militancy has encouraged other workers to fight harder and to replace reactionary leadership in their own unions.

Because of its vanguard role the UNT has been a target of scrutiny and repression. This repression has not been limited to the courts. Management regularly brings in scabs and rival unions to break UNT strikes. The National Labor Relations Board (NLRB) has been punative towards the Puerto Rican labor movement and especially towards the UNT. Three out of ten injunctions granted against Puerto Rican unions since 1970 have been against the UNT.

In Union Nacional de Trabajadores the UNT won a significant legal victory. Union leaders Grant and Cepeda, charged with criminal contempt for ignoring a "legal" National Labor Relations Act injunction designed to break a strike, were successful in securing a jury trial. This victory came after the right to a trial by jury had been lost to labor for twenty years because the NLRB had construed Taft-Hartley Act injunction provisions as being outside of the jury trial protection of the 1933 Norris-LaGuardia Act and the NLRB's construction had been upheld by the courts in a series of bad decisions.

The statutory basis for the NLRB's construction was at issue in Union Nacional. Labor fought for and gained the jury trial protections of section 11 of the Norris-LaGuardia Act in 1933 to prevent the abuse of allowing the judge who issues an injunction and contempt citation to act as fact finder and decision maker in the hearing on the contempt citation, to prevent a single judge from serving, in effect, as complainant, prosecutor, and jury. After the passage of the Taft-Hartley Act in 1947, section 11 of Norris-LaGuardia in 1948 was recodified and broadened in 18 U.S.C. Sec. 3692. The new section 3692 by its language clearly affords the right to a trial by jury in "all cases of contempt arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute".

*Continued on page 20.*

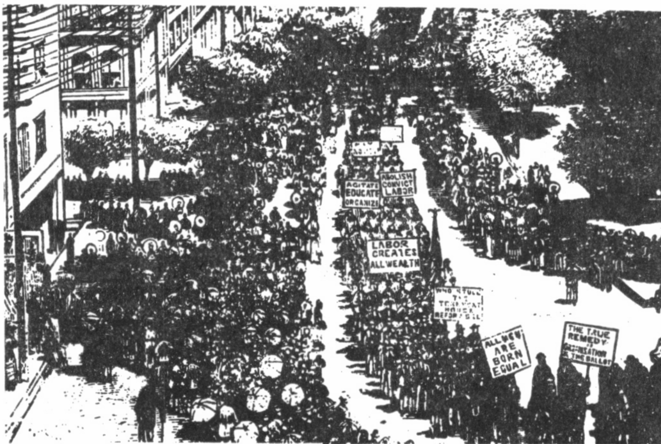
CONTENTS


| | Page |
|---|---|
| Puerto Rican Union Wins Jury Trial | 1 |
| Guild Labor Project Comes to Chicago | 3 |
| Victory in Harlan | 4 |
| Salt of the Earth - Revisited | 6 |
| Removal | 9 |
| Dodge Rebellion | 10 |
| Recent Decisions | 12 |
| Farah Strike Support | 14 |
| Polygraphs in the Plant | 17 |
| Letter to the Editor | 18 |


*Staff for this issue: Kingsley Clarke, Maryon Gray, Beth Henson, Sandy Nathan, Cecile Singer, Earle Tockman.*

# GUILD NATIONAL LABOR PROJECT COMES TO CHICAGO

A National Labor Project, to be functioning and located in Chicago by July, 1975, was overwhelmingly approved by Guild members at the National Convention in Minneapolis.




80.000 WORKERS MARCH IN CHICAGO ON MAY 1, 1886, FOR THE EIGHT HOUR DAY

WHY A NATIONAL LABOR PROJECT?

We are witnessing a significant upsurge in Labor struggles. At one point this summer, over 600 strikes were going on across the country, many demanding not only increased wages, but also safer working conditions, an end to discrimination against minorities and women and an end to runaway shops and lay-offs. Additionally there has been greater organizing in traditionally unorganized industries--agricultural workers, public employees, etc.. And workers are demanding increased democratization of unions.

This intensification of struggle presents itself at a time of deepening economic crisis in the U.S. Fearful of another depression, capitalists seek higher profit rates by cutting down on labor costs (speed-ups, layoffs, runaway shops are just a few examples). Workers are already hard hit by inflation which has meant over a 5% decline in real income.

Workers have always fought in whatever manner they could for better terms and improved working conditions. The "leadership" of many unions today, however have often chosen the approach of becoming junior partners of capitalism. Some unions not all, have given assistance in the exploitation of minority workers in this country and those in countries dominated by U.S. investments. ("If you ask for more we'll move our factory to Taiwan").

The repression of rank and file opposition has often resulted in the abolition of union democracy. (I.W. Abel of the United Steelworkers does not allow rank and file ratification of contracts, and has robbed workers of their right to strike). But important sectors of the workers movement reject this approach. Their desire to fight for the interests of all workers constitutes a progressive anti-capitalist movement.

The National Labor Project will support all efforts which are part of this movement. Some of its goals are to:

1. Eliminate discrimination based on sex, race, craft, or nationality.
2. Organized those unorganized.
3. Improve working conditions.
4. Democratize unions.
5. Improve workers' standard of living.
6. Keep the right to strike.
7. Politicize the workers.

WHAT THE PROJECT WILL DO

The struggles of workers need trained legal help. At the present time, most people who are trained in labor law are working for either management firms or unions controlled by conservative leaders. Therefore, there is a need to provide

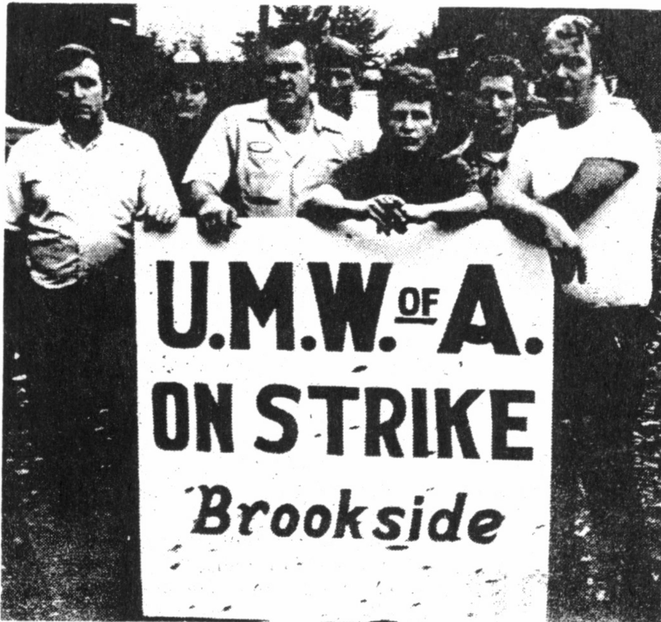
*Continued on page 23.*

## Write for the Labor Newsletter

PLEASE send us comments, criticism, suggestions, articles, leaflets, newspapers, legal pleadings, pamphlets--whatever might interest and/or educate our varied readers. In addition to Lawyers Guild members, the newsletter goes to working people, caucuses, organizations, movement newspapers, prisoners, all over the country. A good way to spread the news.

# VICTORY IN

The Brookside, Kentucky miners on strike for thirteen months have won their strike. On August 29, Duke Power Company was forced by the United Mineworkers Union to accept a UMW contract and to rehire more than 50 fired strikers.



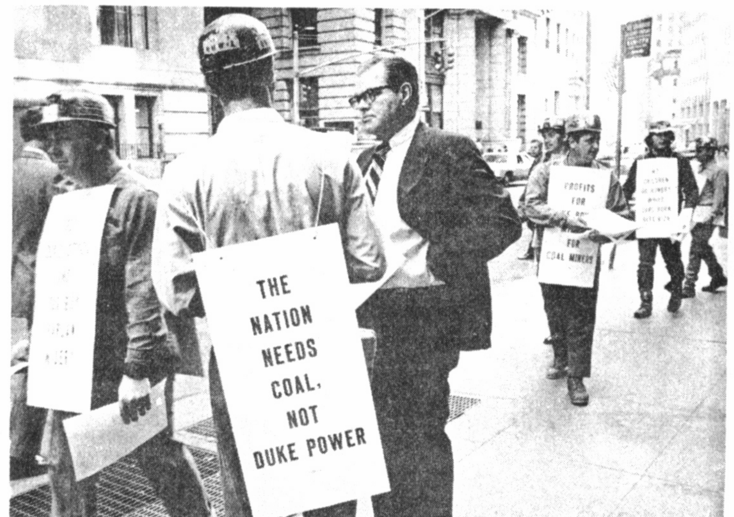

*Brookside miners outside pit entrance.*

The contract was negotiated some hours after the death of Lawrence Jones, a striker who was murdered by a foreman from the nearby Highsplint mine also on strike. The young man's murder was one of a series of violent attacks suffered by miners, their families and their supporters during the course of the strike.

Duke Power Company is the nation's sixth largest utility company, but the Brookside miners (less than 200 men) have defeated this giant corporation.

The state police had been used to harass and arrest picketers and of course the courts were used by the coal operators to get injunctions against picketing. Injunction orders were easily obtained since the judge is himself a coal operator. Peace warrants, easily obtained in Eastern Kentucky, were frequently sworn out against striking miners, but miners had no success at all in their attempts to swear warrants for scabs or mine employees who threatened them with harm. In the final days of the strike miners were evicted from company owned housing.

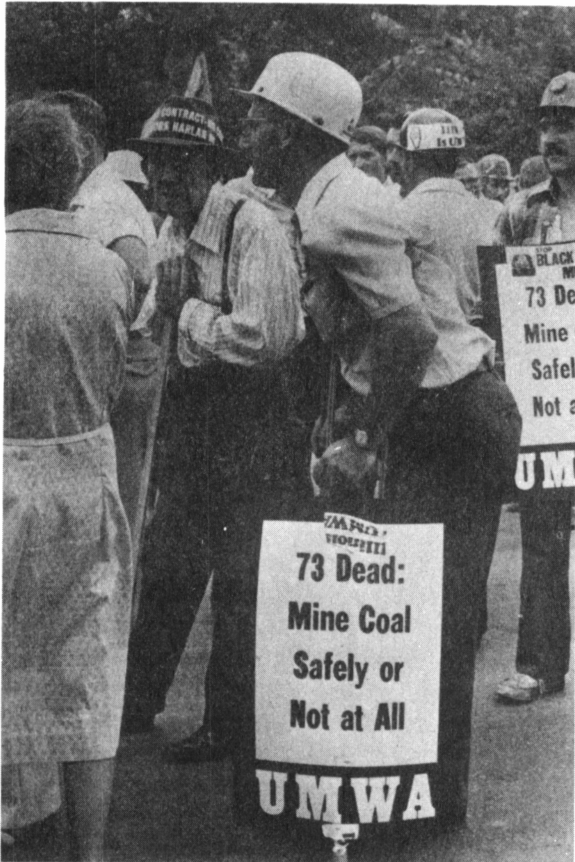
Especially important to the strike's victory were the support efforts of the Brookside Women's Club. This group was organized by wives of the miners and it provided day-to-day support throughout the strike. In addition to collecting money for the strikers, the women walked the picket line when injunctions limited the number of miners to be on the line to six, and they faced down countless scabs and Duke's hired-gun thugs.

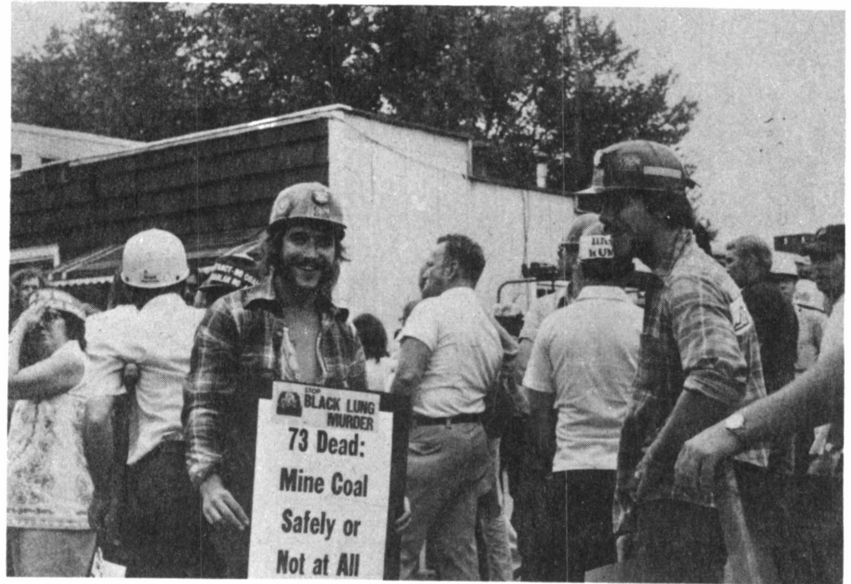



*Brookside strikers take picket line to Wall Street*

# HARLAN

*Text written by Mary Joyce Johnson*




The Harlan County victory opened the door for the UMW in eastern Kentucky, an area which is almost entirely unorganized. It is this kind of organizing campaign that Guild labor projects should be prepared to support. From Brookside we see that defending labor struggles involves more than understanding labor law. It also involves criminal defense, and being prepared to initiate affirmative legal challenges to state statutes.

Throughout the strike broad unity was built with miners and with workers and progressive people everywhere. Miners from all over the coal fields gave financial contributions and on at least two occasions thousands of miners traveled to Harlan for massive support demonstrations. The miners won the support of unions, rank and file labor organizations, and consumer groups throughout the country.

The African Liberation Support Committee lent its support because of the link between the mineworkers struggle and the freedom fight of black South Africans.

The Guild volunteered legal support near the end of the strike when numbers of miners and supporters were faced with criminal trials and no legal defense. The Guild was prepared to send lawyers to aid in this defense effort, but the settlement of the strike includes an agreement to drop all criminal charges.

*Photos on this page of demonstration in Harlan, Ky. taken by Earle Tockman.*

# SALT OF THE EARTH –

The gaping hole in the dry, rolling hills of New Mexico, the Santa Rita Copper Mine of Kennecott here in Bayard, New Mexico, is quiet. No 100 ton trucks rumble up the sides of this massive open-pit mine; and no gigantic electric shovels carve out its sides. Nearby in Hurley, the smelter is all but shut down. The reduction plant is closed down tight. But the union Hall is noisy, buzzing with excitement and work. This is the home of Local 890, formerly of the Mine, Mill, and Smelter Workers, and now of the United Steelworkers of America. And they are on strike.

This is the same local that was shown in "Salt of the Earth". In the early 50's, their strike was against the Empire Zinc Mining Co. The film, in which the miners and their families portrayed themselves, showed that the Courts were used then as now in an attempt to bust the Union and force the workers back to the job. But then, as now, the corporations and their courts were unsuccessful.

In this mining area, Grant County, the characters have changed little from the days of the Empire Zinc struggle. The lawyer for the company (he's the same one who represented Empire Zinc) still files lawsuits for an injunction against the striking workers. The company still spreads lies about the strike being illegal. The judge still enters a "temporary" restraining order against the union. But also, the union is still strong, militant, and is fighting back.

Following the red-baiting of the McCarthy years, the local was forced to join the United Steel Workers Union at the time the Mine and Mill workers "merged" with USWA. The once proud and democratic Local 890 no longer responded to the needs of the rank and file.

But the rank and file were to accept this for only a short time. About a year ago, by an 80% majority vote, they re-elected as President, Juan Chacon, a leader from the mines, who was President during the Empire Zinc strike.

The Local is still about 95% Chicano, and the meetings are run in both Spanish and English so all understand what is coming down. The Executive Board and officers now represent the interests of the rank and file.

Needless to say, with this new upsurge in the local, the large corporations in the Silver City area are not happy, and, as the contract neared its expiration date of June 30, the company was refusing to discuss local issues in a meaningful way. Some of the complaints which Kennecott was refusing to grieve, saying they are matters for contract negotiations, were the safety conditions in the hot and dangerous smelter and mine, seniority, and job classifications.

The workers in 890 were gearing up for a strike, but I. W. Abel, President of USWA maintained that strikes are no longer necessary, and advocated a "partnership" of business and labor. And the contract which Abel was putting forth as the "model" for the industry, did not resolve local issues. It even contained a "Wipe-out" clause, which said all local issues still on the table when the contract is signed would be wiped out and

*Juan Chacon, president of Local 890, shown here (front right) in scene from "Salt of the Earth."*

# Revisited

assumed to be settled. This angered Local 890 even more since local issues were the heart of their dispute with Kennecott, and because the International was saying local ratification was unnecessary. Thus, Abel was trying to sell-out the workers in non-ferrous (non- basic steel) the same way he has in basic steel, taking their only real economic weapon, the right to strike.

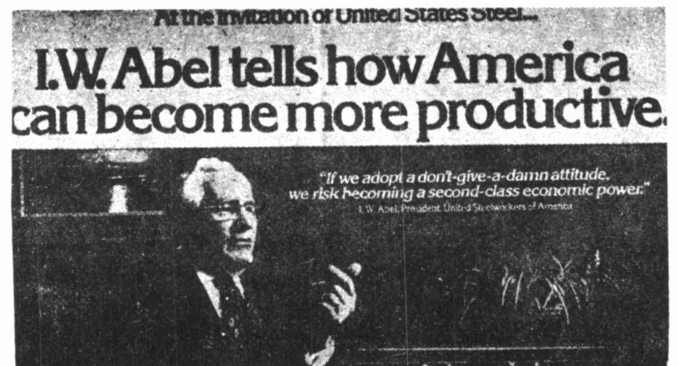
Notwithstanding the fact that Abel tried to jam a "14 day extension" of the contract down the throats of the locals through an illegal vote of the Non-Ferrous Conference, Local 890 struck Kennecott on July 1, 1974. Picket lines were set up and no one crossed. Kennecott was shut down in Grant County.

On July 3rd the company went into State Court, and without any notice to the Union, got a temporary restraining order. The TRO was based on Boys Market, which allows the Court to enjoin a strike if a contract containing a no strike agreement or arbitration clause is still in force. Just prior to going to court, the company and the International issued a joint press statement condemning the strike and calling it illegal. As one of the members of Local 890 said, "Abel and Kenneccott share the same bed . . . and we're going to make it a bed of nails". The workers in 890 refused to abide by this illegal order, and voted unanimously 3 times to continue the strike.

The court scheduled a hearing on the extension of the TRO for July 12th. At that point the workers, and the Guild lawyers who worked with them were squarely faced with whether they should try to remove the case to Federal Court. And like most situations, the answer depended on both legal and political considerations. Pro-removal: 1) Federal law would govern, while New Mexico law was unclear, and there seemed to be good legal grounds (see infra); 2) Federal judges would probably be better than the local state judge; 3) The local would buy time, with the Company having to go to Albuquerque (where the Fed. Ct. is) for its TRO.

Anti-removal: 1) Mass pressure could be applied by filling the courtroom with miners in Grant County, but not in Albuquerque which is a 5 hour drive. 2) More participation by rank and file and 3) In Albuquerque, Abel's men might have felt brave enough to come in court to testify against the local.

The executive committee and rank and file of the local voted unanimously Not to remove, so that on the 12th, a car caravan of over 100 cars formed at the union hall in Bayard and drove the 10 miles to Silver City, and packed the courtroom with 300 strikers with another 200 in the hallways and on the stairs.




By cross examining the Local's president, Juan Chacon, the Kennecott lawyer tried to justify the Boys Market injunction by attempting to prove the existence of an "oral agreement" between Abel and Kennecott to extend the contract. Since Juan had no actual notice of the extension this failed. He then tried to introduce a press release issued by Abel and the Company and an internal company memo which were clearly hearsay.

The Guild lawyers moved to dissolve the TRO, and argued 1) the local court had no jurisdiction to enter an injunction because Boys Market didn't apply, since there was no contract in existence (this was not an arbitrable issue under the contract); 2) even if a contract existed, it was null and void since it was passed illegally at the Non-Ferrous Conference;



*Continued on page 8*

*Continued from page 7.*

and 3) the company and International were not entitled this equitable relief since they didn't have "clean hands", in that the company had refused to bargain in good faith.

The judge, facing the packed courtroom, backed down and dissolved the TRO. The courtroom went wild.

After this victory, the members returned to the union hall to discuss the outrageous actions of the International which, through its conduct, clearly emerged as a primary enemy of the local. Juan Chacon read off a list of the many other locals in USWA who had wired or called in support to 890. Many speeches were made from the floor pointing out that the victory in the courtroom was the result of their unity.

The struggle of Chicano workers in the Southwest is continuing. The workers at Kennecott and of local 890 have inherited the work and direction of the Farah strikers, the Farmworkers, and the struggle against the Sloane Company in California. The militant history of local 890 has again risen and will be an important force within the USWA to oust the corrupt leadership and to fight for the true democracy which should exist throughout the union.

Aftermath

On July 22, 1974, Abel and Kennecott signed a tentative contract, which, in addition to "no local ratification" also contained the much hated "wipe out clause". The International again clearly sold out the membership.

Nevertheless, after 3 weeks of strikes, with no strike benefits coming from the International, the membership of local 890 voted to return to work. But the local has vowed to continue the struggle against Abel and Kennecott, and contacts with others within USWA are being made.

Attacts and Counterattacks

Following the strike Kennecott has filed and served four civil suits against the local and its President (Juan Chacon) and financial secretary (Israel Romera). Each suit asks for $40,000 in damages for the "illegal strike", i.e. 4 days of supposed lost profits. But the company is not going to be able to prove that Juan or Israel were directly responsible for the strike.

Local 890 now plans to use these suits to expose Kennecott and the nature of its Imperialist actions. Members of the Local are now preparing extensive interrogatories about the profit, expenses, conduct and holdings of Kennecott in the U.S. and around the world, as well as for immediate rank and file issues.

The strength and unity of Local 890 will not be defeated, either by I. W. Abel or the Kennecott Copper Company.

# REMOVAL

Title 28 U.S.C.A. §1441

A company lawyer usually runs to the local state court to request an injunction at the first sign of a strike. The union may choose to remove the case to federal court to fight the injunction. The following are basic considerations on removal taken from Al Horn's paper State Court Injunctions and Political Matters and from Charles Alan Wright's Law of Federal Courts. We would like to publish more information on removal and invite those who have removed cases to federal court to submit articles based on their personal experiences.

## Legal Considerations

1. Generally, actions which may originally be brought in federal court may be removed thereto.

2. Removal to federal court gives the defendant the right to elect a forum of his or her own choosing.

3. Venue for removed actions is the district and division in which the state action is pending.

4. The right of removal is decided by the pleadings viewed at the time when petition for removal is filed.

5. Orders of the state court are not conclusive but they are binding until set aside; i.e., if an injunction is in effect at the time of removal, it continues in effect in federal court until set aside.

6. Procedures for removal (28 USCA §1446):
   a. Within 30 days of receipt of the complaint, file in federal court a petition for removal together with copies of the state papers and a cost bond. The petition must contain a short and plain statement of the facts that entitle the petitioner to removal.
   b. File in state court a notice of removal with a copy of removal papers.
   c. Give written notice to the plaintiff.

7. Removal doesn't require leave from either state or federal court but may later be tested by a motion to remand. (28 USCA §1447)

8. So long as a case hasn't been remanded, subsequent state action is void even if the case was improperly removed.

## Political Considerations

1. Federal judges may be less susceptible than state judges to influence exerted by the company or the union.

2. Federal judges may be more hesitant than state judges to grant injunctions. Although contrary to the law (Broadcast Technicians v. Broadcast Service, 380 U.S. 255), state judges are likely to enjoin even peaceful activities of a union involved in a controversy with a company that is subject to N.L.R.B. jurisdiction.

3. Federal judges are reputed to be more "progressive" than state judges.

4. Interested parties may have to travel far to attend hearings if the action is removed to federal court.

5. A local lawyer should be utilized in state court proceedings.

# DODGE REBELLION

*This article is an amalgam of three other articles written individually by Ellis Boal, John Taylor and Jim Jacobs. Ellis Boal's article appeared in the July, 1974, Detroit Guild Newsletter, In the Struggle. Jim Jacobs' article appeared in the August 28, 1974, Guardian.*

A wildcat strike of all production and maintenance workers at the Chrysler Warren Truck Assembly Plant in Warren, Michigan, an all white Detroit suburb, closed the plant down for 3½ days the week of June 10. The plant employs about 7,000 workers of whom 60-70% are black and 30-40% are women. It produces Dodge van trucks, pick-up trucks and campers and is one of Chrysler's most important profit producers. The strike was essentially in protest of plant conditions; demands centered around safety and health grievances, speed-ups and removal of the plant manager. The UAW Local 140 leadership, primarily black, had done little to remedy the bad conditions.

June 3, the Monday following a May 31 stay-out, the company summoned Steve Smith, a member of Revolutionary Union (RU), to Labor Relations to fire him; 50 workers went with him. When the company officials saw the unity of the workers and knew that the top union officers, attending the Los Angeles UAW convention, could not help them, they backed down and sent everybody back to work. Similar harassment occurred on the day shift. On Thursday, June 6, 50 more workers went to Labor Relations to protest the disciplining of a line steward for damage to stock which had actually been a foreman's fault. Again, the company took no action because union officials were still in L.A.

The strike was precipitated by the firing of 4 employees and suspension of 5 others on the afternoon shift, Monday, June 10. Three of the nine disciplined employees were stewards and one of the three, Steve Smith, was a chief steward. These three had established a reputation as militant advocates of workers' rights and were fired for this reason. The company and the union contended that the firings occurred because the 9 had participated in the May 31 unauthorized stay-out of 110 workers.

When the 9 second shift employees were disciplined on June 10, the workers had every reason to believe that more day shift employees would be disciplined and decided they would have to take action. As the 9 got out to the parking lot to go home, they turned and saw all the workers in the metal shop and the trim lines following them. With these two shops out, the company had to close the plant.

At this point the Guild was contacted. A Guild attorney went to the union hall that night and explained that an injunction would probably be issued, that it would be illegal but would nevertheless be enforced by the police, and that it would be used to try to break the strike. The Guild phone number was given out as a legal defense number. From that point on, for the duration of the strike, every time there was a shift change and a new picket line, at least one Guild member was present as a legal monitor.

When over 100 pickets showed up at 4 A.M. the next morning (Tuesday) and 100% of the day shift stayed out, Guild members knew the company would quickly request an injunction and a temporary restraining order (TRO). The company drew Judge Hunter D. Stair who was informed by phone that Guild attorneys represented the strikers

and were on their way to court to oppose issuance of the TRO. Under Cross Co. v. UAW Local 155, 371 Mich. 184 (1963), Michigan required Stair to wait until the strikers' attorneys arrived and to conduct a hearing on the merits before issuing the TRO. Nevertheless, the judge signed the TRO and Chrysler presented Guild lawyers with a fait accompli.

The order was more outrageous in view of the allegation of irreparable injury in Crysler's complaint. This allegation cited only the shut-down of their plant due to the strike and a single isolated instance of violence from which no damage resulted. School District for the City of Holland v. Holland Ed. Assn., 380 Mich. 314 (1968), specifically held that a mere showing of a prohibited nonviolent shut down of an employer's facility by employees is not a showing of irreparable injury and is insufficient ipso facto to justify injunctive relief. In spite of this clear mandate the judge refused to dissolve the order that was later to break the strike.

On Wednesday the strike continued unabated. Picketers were served with copies of the injunction, but the police declined to enforce it. Workers roundly booed UAW Regional Director George Morelli and a Warren Police Officer who were urging them to go back to work. Enthusiasm was high. Meetings at the union hall were packed. On Tuesday evening, June 11, union officials threatened workers with eviction by the police if they did not leave the union hall. To counter the false statements of company and union officials to the media that the strike was being carried on by radicals and outside agitators, the chairman of the strike meeting asked all of the people assembled who were employed at Dodge Truck to raise their hands. Hands of 95% of the 300-400 people present went up. Then the remaining scattered support people, a dozen of whom were associated with RU, raised their hands to clearly identify themselves.

Yet by Wednesday some of the weaknesses and lack of good organization began to appear. Initially, there was racial solidarity on the picket lines but as the

*George Merreli (right), UAW Region 1 Director, listens to the Warren Police Chief order striking workers to leave the union hall. The Local 140 Executive Board and Merrelli, known for his gangster-like political tactics in union politics, called the police to throw the union members out of the building paid for with their dues.*

strike progressed black participation diminished. Fear of being arrested in all white Warren could account for some of the reduced participation; however, while many strike leaders were black and Arab, the black union leadership, focusing attention on Steve Smith, told blacks not to support a wildcat engineered by a white communist. Further increasing the racial tensions,

*After being shouted down several times, Merrelli demanded respect as a union official and was promptly bowled over by salutes and shouts of "Sieg Heil!"*

**Continued on page 12**

# dodge rebellion

*Continued from page 11.*

many of the white workers supported Smith because he was white and militant. Also, some friction had developed between the strike leadership and the legal committee and both underestimated the importance of the injunction. Possible removal of the injunction from Stair's jurisdiction to federal court was never fully discussed.

Thursday morning the judge conducted a hearing and took testimony to bolster the TRO. The UAW attorneys cheerily stated that the strike was unauthorized and that it did not oppose the injunction. Stair re-issued his order in stronger language and said that if violations of the injunction continued, he would personally go to Dodge Truck, hold court on the picket line, and hold in contempt those picketers who refused to disband. Up to this point, despite the illegality of the injunction, Guild lawyers had thought that since most judges would have granted the TRO, Stair was really no worse than any other and that federal removal was unnecessary. The legal committee vacillated about removal; nothing was done.

That afternoon Judge Stair rolled up to the picket line on the back of a Dodge flatbed truck driven by Dodge Truck's personnel manager! The Judge, wearing his black judicial robes, was flanked by 2 armed sheriff's deputies. With the Dodge Truck attorney at his side, he fingered for arrest, first the strike leaders (identified for him by Dodge Truck personnel), then other random picketers.

As soon as the area was cleared, Chrysler and UAW officials began waving people into the plant back to work. Two hundred strikers regrouped back at the union hall. Though it was decided to continue the strike, the next day only 30 people showed up at 4 A.M. to picket. When they marched down to the plant gate, the judge was there again and ten more arrests were made. The strike was over.

The strike committee is continuing the struggle at Dodge Truck. Of the 79 fired, all of whom are young and have three years or less of seniority, 62 have been reinstated and 16 are going to arbitration. Possibly some of these 16 will get back

*Continued on page 19*

# Recent Decisions

This Note was Compiled From Material Supplied by David Rosenfeld and Laura Uddenberg

In Watkins v. Steelworkers Local 23697, 7 FEP Cases 90 (E.D. La. 1974), there was a prior history of absolute racial discrimination: no blacks had been hired at Continental Can's Harvey, Louisiana plant. Finally, in 1968, an affirmative action program resulted in the employment of one black for every eight whites. Beginning in 1971, however, there were cutbacks and all but two of the blacks were subsequently laid off.

These black workers who were laid off filed a Title VII action charging both Continental Can and the United Steelworkers of America with racial discrimination. The Watkins court found that the thirteen black workers were entitled to relief. The court suggested either a combination of back pay and priority rights to recall, or the re-hiring of the black workers and the shortening of work hours for all employees. The court would not, however, go back and redistribute the existing jobs between black and white workers as requested by plaintiffs.

Nevertheless, this case goes farther than previous seniority cases. It held that the seniority system was totally invalid since it preserved the jobs of whites during the layoffs. Watkins is one of a series of recent steel industry cases holding that Title VII prohibits employment practices which perpetuate the effects of past discrimination, including discrimination prior to the 1964 Civil Rights Act.

# Leafletting RIGHTS Extended

by Debbie Honig, San Francisco

In NLRB v. Magnavox Company of Tennessee, 94 S.Ct. 1099 (1974), the Supreme Court has ruled that a union recognized as the collective bargaining representative of employees may not waive their right under Labor-Management Relations Act (Taft-Hartley) Section 8 (a) (1) to distribute literature in nonworking areas during nonworking hours, when such a waiver would infringe on the right of workers to select a collective bargaining representative.

The majority opinion also reaffirms Textile Workers v. Lyndon Mills, 353 U.S. 488, 455, 40 LLRM 2113, that a union may, in reaching an agreement with an employer, waive the right to strike while the agreement is in force, in exchange for the employer's acceptance of grievance and arbitration procedures. But where the workers' right to exercise their choice of a bargaining representative is involved, a union may not enter into an agreement that would effectively stiffle organizing efforts of employees, particularly those who oppose the established bargaining representative.

The case arose as a result of a 1954 agreement between Magnavox and the International Union of Electrical, Radio, and Machine Workers (IUE), when IUE was recognized as the bargaining representative. At that time Magnavox prohibited the distribution of literature by employees in both working and nonworking areas. The 1954 Magnavox--IUE contract and all subsequent contracts authorized Magnavox to make rules for the "maintenance of orderly conditions on plant property," provided that its rules were not "unfair" or "discriminatory." Magnavox also agreed to provide two bulletin boards exclusively for the posting of union notices. The company reserved the right to prevent "controversial" notices from being posted.

In 1970 IUE challenged the no-distribution rule under Section 8 (a) (1) of LMRA. In 1971 the union obtained an order requiring Magnavox to comply with Section 8 (a) (1). On appeal, the NLRB upheld the validity of the order (195 NLRB 265, 79 LRRM 1283) in spite of the company's argument that IUE had contractually waived any objection to the rule. The NLRB held that the place of work is a legitimate and proper place for union organizing activities (see Gale Products, 142 NLRB 1246, 53 LRRM 1242 1963), and that a waiver of employees' rights under Section 8 (a) (1) of LMRA might seriously limit their rights under Section 7 of the Act to form, join, or assist labor organizations, or to refrain from union activites.

The NLRB decision was reversed by the U. S. Court of Appeals (474 F. 2d 1269, 82 LRRM 2852) on the ground that a bargaining representative has the authority to waive workers' on-premises distribution rights, at least in the absence of special circumstances not present in the Magnavox case.

The Supreme Court majority opinion, written by Douglas, relies on the Fifth Circuit Mid-States Metal Products case (403 F. 2d 702, 69 LRRM2656 1968). Mid-States characterized the rights to distribute materials and to organize for collective bargaining as rights of individual employees that pertain to their selection and re-evaluation of their collective bargaining representatives; these rights are distinguished from the rights of employees acting collectively through their bargaining agent to obtain economic benefits from their employer. When a union established as a bargaining representative acts in accord with the interests of individual workers, the legitimacy of waiving Section 7 rights does not arise. "But," the court said, "the rationale of allowing waiver by the union disappears where the subject matter waived goes to the heart of the right of employees to change their bargaining representative, or to have no bargaining representative, a right with respect to which the interests of the union and employees may be wholly adverse. Solicitation and distribution of literature on plant premises are important elements

continued on page 18.

# FARAH SUPPORT COMMITTEE WINS IN SEATTLE

*By Mike Whithey*

The Seattle Chapter of the National Lawyers Guild won one of its most protracted legal battles when the Allied Stores Corporation (Bon Marche) dismissed its lawsuit against the Seattle Strike Support Committee (Committee) arising out of the Committee's militant support of the boycott of Farah products. This victorious result came after more than six months of litigation in which the Bon, using its allies in the court, sought restraining orders, injunctions, arrests of demonstrators, contempt citations, discovery of membership lists and damages for libel and slander while the Committee, using its strength in the streets and on the picket lines, expanded its organizational activity from a handful of leafletters at the downtown Seattle Bon to mass picketing at four Bon locations in the Puget Sound area.

The Background:

In late February, 1973, the Farah boycott was in full swing. In Seattle, the Bon Marche, a subsidiary of the Allied Stores Corporation, the second largest clothing retailing firm in the country, was under increasing pressure to honor the boycott by not reordering or advertising Farah slacks.

In early March, a local union leader telephoned a top Bon official to inquire into the Bon's position on the boycott. He was told that, although nothing could be put in writing, the Bon would agree not to reorder or advertise Farah slacks. He was also told that the Bon would notify the Amalgamated Clothing Workers (ACW) on behalf of the striking Farah workers if there was a change in the Bon's position. This discussion was communicated to the numerous Farah boycott support organizations, including the Seattle Strike Support Committee, and the pressure on the Bon was taken off.

The agreement was complied with, as far as is known, throughout the next eight months until, in the early fall of 1973, the Bon began to advertise Farah products in local newspapers without notifying the ACW or anyone else. After numerous unsuccessful attempts to obtain clarification of the Bon's position the Committee, completely independently of the ACW, began peaceful picketing and leafleting of the downtown Bon store. The leaflet described the Farah strike and stated that the Bon had broken its agreement not to reorder or advertise Farah slacks.

During two of these actions members of the Committee entered the Bon, gave short speeches on the Farah strike and left. The Bon's reaction was a classic case of legal overkill. Rather than asking the picketers to restrict their picketing to outside the store, the Bon filed a complaint in King County Superior Court charging the Committee and numerous members with (1) civil trespass, based upon the entrance into the store and (2) libel and slander, based upon the leaflet's statement

Strike poster.

that the Bon had broken its agreement. The complaint sought money damages and injunctive relief against picketing inside the store, "massing at doorways" and "interfering with customers."

The Committee's Response:

The Committee contacted the Seattle Guild and a legal defense committee consisting of Committee members Bob Stein and Marilyn Fournier and Guild lawyers Ron Kessler, Arnold Pedowitz, Sasha Harmon, Steve Randels, and Mike Withey was created. The strategy chosen reflected the economic realities of the situation. The Bon, with considerable resources at its disposal, had brought a frivolous lawsuit in order to enlist the tools and devices of the legal system to smash the boycott and divert the Committee's attention and energy from the political to the legal front. The Committee saw that its strength lay in stepping up picketing activites while it refused to give an inch in court. The expected continuation of the strike, coupled with the upcoming Christmas buying season helped shape this legal/political strategy.

The Court Battle:

The court battle was hard-fought from the beginning. At the hearing on the Bon's motion for a Temporary Restraining Order (TRO) the Guild attorneys made the point that, although it was not the Committee's intention to picket inside the store, they could not agree to a consent order as the Judge and the Bon attorneys suggested. Judge Soderland entered the TRO directed mainly against activities inside the store, and later a somewhat narrower preliminary injunction was entered.

In the ensuing weeks, the Bon attorneys set the demeanor of the litigation by a series of legal and not so legal manuevers: they confided to Mike Withey that the Bon wasn't really serious about pressing the libel and slander suit against the Committee; they asked to see the bar card of Guild attorney Arnold Pedowitz, implying that he was not licensed; they caused copies of the injunction and complaint to be served on the picketers at the Bon in a rude and provocative manner; they took films and photographs of the picketers and their activities; they sought contempt citations against a Committee member who went inside the store to talk quietly to customers; and finally, they subpoenaed Committee member Bob Stein to appear at a deposition to answer questions about Committee members (names, addresses, phone numbers) and Committee finances and activities.

Although the frenzied legal activity created considerable demands upon the Committee, it remained determined to resist the Bon's assualt and to initiate a legal offensive.

The Offensive:

Committee attorneys Mike Withey and Ron Kessler successfully defended against the contempt charges. They then brought motions for a protective order against the Bon's discovery, arguing that to require the Committee to divulge its membership list would violate members' constitutionally protected right to freedom of association (citing N.A.A.C.P. v. Alabama, 357 U.S. 449 (1958) and its progeny). At the hearing on the Committee's motion for a protective order Judge Nancy Ann Holman ruled against the Committee and ordered it to turn over to the Bon the names and addresses of those members of the Committee

Continued on page 16

*Continued from page 15.*

who took part in the activities alleged in the Bon's complaint. When Bob Stein refused to do so, Judge Soderland held Bob in contempt of court for a period of thirty days or until he complied with the court order. An appeal was filed within days and Bob was released on his personal recognizance pending appeal. He had spent four days in jail.

The unwarranted jailing of Bob Stein ignited even more resistance to the Bon's tactics. The Bon offered to drop its suit and the contempt charge against Bob if the Committee would agree not to picket at the three other Puget Sound Bon stores. But the Committee made no deals. Instead it expanded its leafletting activites to the three other Bon stores.

On December 10, three leafletters were arrested by police on the advice of Bon officials present at the scene. These three had been peacefully handing out leaflets inside a shopping mall and were clearly within the protection of the First Amendment under the Logan Valley and Lloyd Center decisions. The blatant illegality of the arrests was confirmed when the Bon's attorney appeared at the jail and attempted to post bail for the three.

Shortly thereafter the Committee filed its answer to the Bon's lawsuit and included a counterclaim against the Bon and its top officials for violation of civil rights, abuse of process and malicious prosecution. This legal offensive coincided with a continually escalating political offensive in which over 75 demonstrators converged on the mall on Christmas Eve, urging shoppers to boycott not only Farah slacks but the Bon itself.

These large picket lines were so successful that the Committee sponsored several more. The Bon's response was true to form. They requested another injunction to (1) limit the number of picketers to three per entrance (2) outlaw all fundraising activities on behalf of the Committee and (3) ban all chanting on the picket lines. The Bon appeared in court armed with color films and 8 X 10 glossy photographs with circles and arrows on the back. They were rebuffed when Judge Johnson extended the previous injunction in certain respects, but not in the particulars sought by the Bon.

While this was happening, the Bon moved for summary judgment on the Committee's three counterclaims. In response Guild attorneys filed extensive interrogatories, requests for admissions and for production of documents. Judge Francis Holman dismissed the counterclaims for violation of civil rights and abuse of process but left standing the claim of malicious prosecution. More importantly, he granted very liberal discovery and required the Bon to provide the Committee with extensive data and numerous documents including the Bon's monthly gross receipts from Farah products for the last three years and all correspondence between the Bon and the Farah Manufacturing Company dealing with the boycott.

Just prior to Judge Holman's decisions the news came that the Farah strike had been settled. Although the Committee considered continuing with its suit against the Bon for malicious prosecution, the realities dictated against this use of resources. Under pressure of the Committee's discovery motion, the Bon dismissed on its own initiative the libel and slander suit.

For the Future

From their work the Guild people in Seattle gained much valuable experience in working with and supporting political people and their struggles and much insight into how the civil court system can be used and misused. Their experience shows how Guild people in areas geographically far removed from a particular workers' struggle can aid the workers through aiding the work of strike support committees.

# POLYGRAPHS IN THE PLANT

*The following letter was sent to us by a friend in Ohio.*

In July of 1972 I applied for a job at Best Products warehouse. After filling out the application form I was asked to go into another room. A man was sitting at a table with a polygraph (lie detector). He instructed me to sign a form that said that as long as I was employed by Best Products I must willingly submit to polygraph examinations. I needed a job so I signed the paper. This man proceeded to hook me up to the machine with bands around my stomach, arm, and fingers. He went over my entire job application, then asked me the following questions: Had I ever broken any laws and not been caught? Had I ever lied to my parents? Had I ever had any homosexual relations? Would I work my hardest for the $2.00 an hour Best paid? Had I ever smoked marijuana?

After I was working at Best for six months a group of us began to organize a union. It was a long, drawn-out battle to get the union in. On March 17, 1973 we won the election fifteen to five in favor of being represented by the Teamsters.

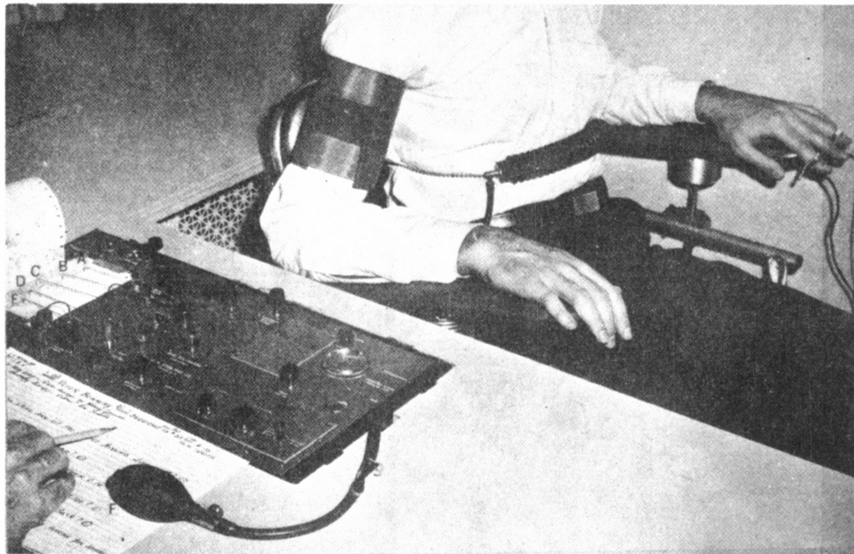
jumped on the conveyer belt and rode it down to the boss' office and told him as a group that we were refusing to be tested.

We were called into his office one by one and sure enough everyone refused the test and was "indefinitely suspended". We picketed for two months and because of little support from the International, people began to get other jobs or submit to the test and return to work.

The case is still before the NLRB. The NLRB in Cincinnati ruled that we should be given our jobs back with back pay, but Best Products keeps on appealing. The Union's lawyer is still with us (so he says) and he said it may take two years to get cleared up.

I think the use of lie detectors by big business for selecting employees is fascist and all working people should stand up against its use.

A warehouseman from
Dayton, Ohio



We began negotiations, but we had not gotten anywhere by July. The lie detector machine was a big issue in the bargaining sessions. On July 14 a polygraph machine was brought in. When the boss called over the intercom for the first worker to come down to be tested, every warehouse worker

To our readers:

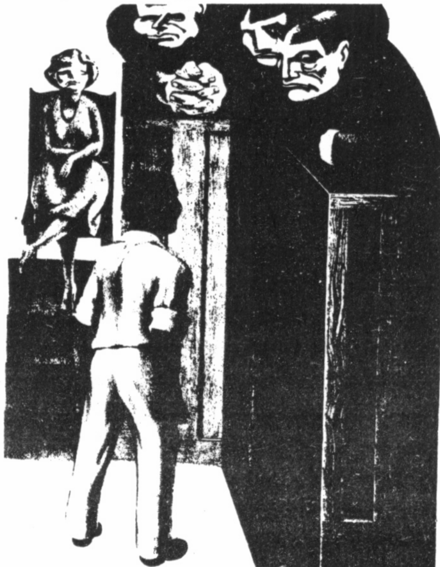
The Labor Newsletter would like to publish more information about ways in which workers and their attorneys can fight employer use of lie detectors. If any of you have had experience in this struggle, please write and let us know what you have been able to do.

MAGNAVOX - *Continued from page 13*

in giving full play to the right of employees to seek displacement of an incumbent union. We cannot presume that the union, in agreeing to bar such activities, does so as a bargain for securing other benefits for the employees and not from the self-interest it has in perpetuating itself as bargaining representative."

"A waiver of the right to solicit and distribute literature does not hamper the union as it does the union's adversaries. The union can communicate through the bulletin board, union meetings and the force of status as bargaining representative ..... Its adversaries will not have equal access to and communications with their fellow employees."

The Supreme Court adopted Mid-States in its entirety in the Magnavox decision, but added one significant point: A union may not contractually waive or limit statutorily protected rights of its individual supporters any more than those of its opponents. The Court noted that NLRB decisions on this issue had not been consistent. In Gale Products, for example, the Board held a collective bargaining agreement's no-solicitation, no distribution clause illegal only insofar-as it prohibited distribution of materials during nonworking time and in nonworking areas and solicitation "on behalf of a labor organization other than the contracting union." In Magnavox, however, Douglas explicitly states that Section 7 rights must be enforced by the NLRB equally in favor of pro-union and anti-union workers.



# LETTERS...

To the Editor:

It is a mistake to extrapolate from the actions of some union officials in certain concrete circumstances to a wholesale condemnation of an international union or unions in general. At the NLG Labor Conference in Atlanta we heard conflicting blanket assertions about the UAW: the UAW is this; the UAW is that. This is the wrong approach. The UAW or any other union is different things in different places under different conditions. There are militant, rank-and-file locals whose leadership and membership take on the boss and run their own affairs without interference from the International. At the same time, there are unresponsive, politically backward locals who think the International is too democratic and too leftwing.

An analysis of a union like the UAW must consider carefully the conflicts between the International and the locals, between the local leadership and the rank-and-file, among the International and local leaderships, among different elements of the rank-and-file, etc. An analysis of the labor movement in general must discuss the conflicts among different unions, regions, industries, and among the workers as a whole. Any analysis must also address the role of the government, the courts, and the corporations.

Our analysis must also be historical. The corporations, government and their labor allies have always moved to crush united, rank-and-file unionism wherever it appeared. In the Cold War Period their campaign was to split the CIO isolate and destroy the Left and turn the CIO into another AFL. And they succeeded. One of the results is that young American radicals have little or no experience of unionism that is not top-down, business unionism. But the fact that some unions, or even most unions, are lousy business unions does not mean that responsive, democratic, militant rank-and-file unionism cannot be built - in some cases rebuilt - in America. On the contrary, a

*Continued on page 24*

# dodge rebellion

*Continued from page 12.*

because many of them did not actively participate in the strike beyond picketing. The activists will probably never be reinstated. Already the union has abandoned Steve Smith's grievance prior to arbitration. Guild attorneys plan to file NLRB charges on behalf of Smith and those whose grievances are dropped, if there are any others.

The company did a cosmetic clean-up job during the strike, but the working conditions degenerated within a week. The workers feel strongly that the strike was righteous and, most important, that all of the fired employees should be reinstated. This is significant because of the attempt at red-baiting the RU that the union and the press made. The workers do not distinguish between the communist and non-communist among the 17. All must go back.

The union had set an authorized strike to begin Friday, September 13 because workers voted 7 to 1 to strike in an exceptionally large turnout. But the union has subsequently maintained that the company has shown a new conciliatory attitude by hiring a new labor relations manager. (In fact, the "new" manager had been hired before the strike and had testified against the workers at the injunction hearing.) The union canceled the 7-day strike notice September 16, after a meeting the day before at which the union claims 73% of the workers voted against the strike. However the fairness of this election is questionable: no observes were allowed to guarantee against vote fraud. Although one had to show a union card to vote, his or her name wasn't checked off; people, therefore, had an opportunity to vote more than once. Further, in view of the large strike vote just shortly before, this no-strike vote is strange.

Since the strike, because the leadership has become dispersed and dispirited, the Guild has not been able to fulfill its plan to continue to pressure the company through NLRB, OHSA, and workmen's compensation complaints. However, the contempt charges against the 30 arrested have been dismissed on the ground that the contempt was civil and not criminal. The injunction was set aside as moot. Arrest records and fingerprint cards of all those arrested have been returned. And because Chrysler blundered on the unemployment compensation claims, all of the 62 who were reinstated got unemployment compensation the entire time they were off without penalty.

*Steve Smith, the fired chief steward, speaks from the podium of the occupied union hall.*

## Jury Trial *Continued from page 2.*

The NLRB and the courts had construed this language as applying only to employer initiated injunctions regulated by the Norris-LaGuardia Act and not to injunctions issued under sections 10(h) and 10(j) of the National Labor Relations Act (NLRA). These NLRA injunctions, ushered in by the Taft-Harley Act in 1947 and administered by the NLRB, were a serious setback for the workers' movement because they work to limit the legitimate economic weapons of labor. While curing the abuse of employers being able to directly petition the court for injunctions, these injunctions are available to employers indirectly through the NLRB after an NLRB determination that there is good cause to believe an unfair labor practice has been committed. These injunctions are in fact easier to obtain than employer initiated Norris-LaGuardia injunctions and are the principle form of labor injunction today.

The right to a jury trial is effectively wiped out if 18 U.S.C. 3692 is limited to Norris-LaGuardia injunctions and not applied to NLRA injunctions. The abolition of the right to a trial by jury is a major change in United States labor policy. Through its construction of Taft-Hartley and a narrow reading of 18 U.S.C. 3692, the NLRB contends that the right to a jury trial was abolished twenty years ago without any policy debate.

The National Lawyers Guild Labor Committee submitted an amicus brief to the First Circuit Court of Appeals on this issue and on the history of the workers' struggle for the Norris-LaGuardia protections. The First Circuit relied heavily on this brief in its decision which held that a jury trial is required in a criminal contempt proceeding stemming from alleged violations of an NLRA injunction. The request for the amicus brief was made to the National Lawyers Guild Labor Committee by UNT attorneys, the Center for Constitutional Rights in New York. The submission of the amicus was authorized by the NLG Labor Committee sitting as a whole at the National Executive Board meeting of the Guild in Atlanta in March of 1974 and the actual work on the brief was done by the Boston NLG Labor Committee. The brief was submitted in April. This was the first amicus brief submitted by the National Lawyers Guild Labor Committee since the committee was reconstituted in Detroit in 1972.

The jury-trial issue arose out of the following struggle: In 1973 UNT represented 800 construction workers employed by Construcciones Werl, Inc., a major Puerto Rican construction company. In the past several years Werl has been engaged in numerous major construction projects on the island. Workers at two of Werl's most important projects, construction of a municipal parking garage in Santurce and of a building complex for the University of Puerto Rico at Mayaguez, have been represented by UNT for two and three years respectively.

After winning the right to representation by UNT, workers at both these sites entered into initial contracts with Werl which were set to expire at the end of July, 1973. Accordingly, on May 10, 1973, UNT gave Werl notice of its intention to renegotiate contracts for both construction sites, well in excess of the 60-day notice requirement imposed by Section 8(d)(1) of the NLRA.

The union entered into negotiations with Werl at that time, but on August 2nd, when no new contract had yet been agreed upon, UNT treated the old contracts as expired and union members struck and picketed both the garage and University sites in support of their new contract demands.

While the strike was in progress, the Federal Mediation Service informed the NLRB that the UNT had failed to give 60-day notice of contract expiration to the Federal Mediation Service and the Puerto Rican Department of Labor's Conciliation Bureau as required by the letter of section 8(d)(3) of the NLRA. The NLRB notified Werl of this lapse. Werl, in turn, filed with the Board section 8(d)(3) and 8(a)(5) charges against the union. Instead of merely proceeding to process the charges, the NLRB exercised its discretion, and on August 19th filed a petition in the U.S. District Court for an injunction enjoining all strike activities.

As the union was able to show in court, the notice requirement is mean-

*Continued on page 21.*

*Photo CLARIDAD by Charron*

ingless in Puerto Rico. No agent from the Federal Mediation and Conciliation Service has ever come to Puerto Rico upon receiving the kind of perfunctory notice required. Mediators from the Puerto Rican Department of Labor never intervene in a labor dispute except upon express request by telephone or personal contact from one or both of the parties involved. Thus, the total injury resulting from failure to comply with these details of section 8(d) was the absence of two meaningless pieces of paper. Nevertheless, the NLRB saw fit to invoke its discretionary power to seek an injunction against an otherwise protected strike.

The only manner in which the UNT could have cured the technical error and complied with the injunction was to stop the strike in progress, file the notice with Federal Mediation, wait 60 days, and then proceed with the strike. Thus, compliance meant losing the strike.

The U.S. judge presiding over the injunction hearing was forced to agree with UNT that requiring notification to the federal and Puerto Rican mediation agencies was absurd when there had already been more than ample notice to the employer and, in the interim, good faith bargaining by both parties. But he proceeded to rubber stamp the NLRB petition and grant the injunction against the strike as requested on August 30th, accompanying the order with the observation that the court was required to apply the law as written, no matter how ridiculous or oppressive it might be in its practical application.

Upon receipt of the injunction, UNT President Arturo Grant and Secretary-Treasurer Radames Acosta Cepeda publicly announced that UNT considered the injunction of no force and effect, and that the strike actions would continue. In addition, UNT members organized a public demonstration and picket line in front of NLRB headquarters in Hato Rey, carrying picket signs which declared, among other things: "We Won't Obey Injunction," "Union Nacional Won't Be Stopped By Anybody," and "NLRB Out of Puerto Rico."

The UNT challenged, by motion, the power of the NLRB and the U.S. court to exercise jurisdiction over its strike, pointing out that the law being used against the strike was just one of the myriad of laws which have been imposed by the United States on the Puerto Rican people without their consent and which were at the time being scrutinized by the Decolonization Committee of the United Nations.

The UNT did not appear at the NLRB hearings on the unfair labor practice charges. The NLRB lost no time in retaliating. On September 4th, the NLRB filed a petition in District Court charging

*Continued on page 22.*

## Jury Trial

*Continued from page 21.*

President Grant, Secretary-Treasurer Cepeda and the union with civil contempt. Much to the Board's chagrin, Werl had in the meantime returned to negotiations with the union, and, by September 13th, the UNT had won the strike and a contract agreement had been reached.

By the following week, before the civil contempt proceedings had gotten underway, the contract had been signed and UNT members were back to work, rendering the civil contempt a dead issue because civil contempt is a preventive and not a punitive sanction. But, in an unprecedently vindictive move, the NLRB, while quietly withdrawing the civil contempt petition, filed a new petition on September 18th, asking the court to institute a sua sponte prosecution for criminal contempt of court, and requesting that NLRB attorneys be appointed as special counsel to assist the U.S. Attorney in prosecution. A judicial rubber stamp was affixed to both these requests by U.S. Judge Jose Toledo, who, on September 24th, granted an order to show cause on the criminal contempt charges. (In a classic instance of overkill, U.S. Attorney Julio Sanchez filed, also on September 24th, a criminal information. The allegations of this information were essentially identical to those contained in the criminal contempt citations. The information was later withdrawn in November at the request of the U.S. Attorney, apparently in belated recognition of the inappropriateness of this tactic in contempt proceedings).

*Radames Acosta and Arturo Grant*
*(Photo CLARIDAD by Charron)*

The criminal contempt proceeding was set for trial on January 21, 1974, and reset for February 11, 1974, but continued each time because of the pendency of the many pretrial motions filed by the defendants. In the course of the proceedings, Grant and Cepeda submitted motions to the court that they be granted jury trials as required by 18 U.S.C. 3692, and that all further proceedings, and, in particular, the jury trial be conducted in Spanish. Judge Toledo denied both motions and, accordingly, petitions for mandamus were filed on these issues with the First Circuit Court of Appeals. Mandamus was granted on the jury issue, but not on the language issue. A jurisdictional motion, personally briefed by Juan Mari Bras, the General Secretary of the PSP, was summarily denied.

The decision in the First Circuit on the jury issue is the first good decision on this issue and creates a split in the circuits. A petition for certiorari has been filed by the Teamsters in a Ninth Circuit case, and, if certiorari is granted and the government appeals, the two cases will probably be joined. (See <u>Hoffman v. International Longshoremen</u>, 492 F2d 929 (1974) Even if the decision in <u>Union Nacional</u> is not appealed, Grant and Cepeda will still face a jury trial conducted in <u>ENGLISH</u>. Federal court proceedings in Puerto Rico are conducted in English in spite of the fact that most litigants, most witnesses, most attorneys and all Puerto Ricans are Spanish speaking. The jurors, drawn from a pool of English speaking Puerto Ricans are not peers of Puerto Rican workers.

The UNT won the court battle on a labor issue which benefits North American workers and lost on the colonial issues; however, the UNT victory is important politically. The UNT was faced with disobeying an injunction or losing a strike. It ignored the injunction and won the strike. When the UNT and its officers face the jury, UNT members and the members of the thirty-five unions in the National Labor Movement will be backing their actions. This fact will not be lost on a jury, even an English speaking jury (many of whom will have nationalist sympathies) as it would be lost on a judge.

# Labor Project

*Continued from page 3*

basic training in labor law skills to progressive legal people.

The project will consist of a resource center, located in Chicago, staffed by four full time people who will: 1) provide legal training for lawyers, law students, legal workers and organizers; 2) develop legal materials and strategies around specific problems facing the workers movement; 3) provide information about and analysis of the state of the country and the workers movement; 4) provide information about the legal system to workers.

There is still discussion about whether the Project will coordinate national Guild labor work. The Project will also publish this monthly newsletter, which is now being published by the Chicago Labor Project. It will contain articles analyzing the state of the economy, its effects on workers, developments in the workers movement, etc. It will also have articles on developments within the Guild National Labor Committee, and recent happenings in labor law.

---

HELP

PLEASE RENEW YOUR SUBSCRIPTIONS AND ENCOURAGE OTHERS TO SUBSCRIBE

The Labor Newsletter keeps you informed of labor struggles not reported in the establishment media. Articles are written from the perspectives of those immediately involved in these struggles. They describe legal and political strategies which you can adapt to local fights.

Give a Labor Newsletter subscription to comrades and colleagues for birthdays, anniversaries, Christmas, Chanuka, May Day, International Women's Day ..........

THE NLG LABOR NEWSLETTER

SHOW IT OFF PASS IT AROUND ONLY $5 A YEAR

- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -

Name ______________________________________________

Address ____________________________________________
(Street) (City) (State) (Please give ZIP!)

Number of Subscriptions ____________. $__________ enclosed.

Mail gift subscription to:

Name ______________________________________________

Address ____________________________________________
(Street) (City) (State) (Please give ZIP!)

SEND TO: NATIONAL LAWYERS GUILD
21 East Van Buren Street - Room 601
Chicago, Illinois 60605

# letters

*Continued from page 18*

tremendous potential for a revived labor movement is developing as shown by the Mineworkers, the anti-no-strike movement in Steel, the survival of the Farmworkers, and the triumph of the Farah strikers.

A helpful analysis of the American working class movement and the role of the unions in that movement will be difficult and will require constant refinement. Conditions are changing, forces are shifting, the people are moving. We in turn must be flexible, must be historical, must be concrete in our method.

Fraternally,

Lance Compa

NATIONAL LAWYERS GUILD PRACTIONER
Special Issue on WORKERS AND LAW
Available from:
Legal Publications
Box 673, Berkely, CA 94701
Price: $4.00

CONTENTS INCLUDE: excerpts from agreements negotiated by Longshoremen's Union (ILWU) to fight job loss from RUN-AWAY SHOPS; full reprint of economic analysis of correlation between RIGHT TO STRIKE and wage gains of steel workers, submitted to Court by steelworkers seeking to set aside I. W. Abel's no-strike pact; excerpts from Court opinion denying injunction against strike by members of GULF COAST PULPWOOD ASSOCIATION; excerps from complaint and brief submitted by union local seeking alleviation of UNEMPLOYMENT thru enforcement of Employment Act of 1946; some terms of agreement ending SAN FRANCISCO TEACHER strike.

---

National Lawyers Guild
NATIONAL LABOR COMMITTEE
21 East Van Buren
Chicago, IL 60605

Bulk Rate
U.S. Postage
P A I D
Permit No. 1056
Chicago, Ill.

Address Correction
Requested