

THE CASE FOR OVERSIGHT HEARINGS
TO REVIEW THE GOVERNMENT'S CONTINUING
USE OF THE RICO STATUTE TO CONTROL
THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Introduction

The United States Congress should hold oversight hearings to review the continued use of the RICO statute to control the internal affairs of the International Brotherhood of Teamsters. The last hearings on this subject were conducted in April 1989, only a month after the IBT Consent Decree was entered in March 1989, by the Senate Permanent Subcommittee on Investigations. Those hearings questioned the Government's use of RICO against individual IBT officers in order to obtain judgments binding on each of the Union's then 1.5 million members and on its more than 600 independent, unrepresented and non-consenting Local Unions.

In response to questions by Senator Nunn, United States Attorney Benito Romano pointed out that the Consent Decree contained a provision requiring approval of its amendments to the IBT Constitution by the democratically elected delegates to the June 1991 IBT Convention. Despite Mr. Romano's statement, prior to that Convention, the Government requested and obtained an injunction prohibiting the delegates' vote from having any effect whatsoever on the Consent Decree -- a "Russian vote" in the words of one appellate court judge. Thus, despite overwhelming disapproval by the delegates, the Government continued its control under the Consent Decree through the artifice of its attacks and threats of financial ruin against individual officers of the International Union, over the dissent of the membership's freely elected delegates and without ever having to prove its claim that the loosely organized Teamster organization -- including more than 600 independently operated Local Unions -- constituted a single "enterprise" controlled by organized crime.

Other events since the 1989 hearings show that the Government continues its control of the IBT despite completion of the elections of Convention Delegates and International Officers certified by a Court-appointed Election Officer in 1991, despite the ouster of some 200 union officers from various levels of the organization as the result of charges brought by a Court-appointed Investigations Officer, despite various oversight actions and reforms instituted by the Court-appointed Independent

Administrator, and despite various sunset provisions contained in the Consent Decree.

This continued control comes at a critical time in the Union's history. At the end of 1991 the Union had \$115 million in reserves. The most recent figures available to the membership assert that as of June 30, 1994, the Union's net worth has dropped to \$7.3 million. This report along with government reports filed for 1992 and 1993 show that during the 30 month period from January 1, 1992, to July 31, 1994, the International Union spent \$345 million while taking in only \$190 million. During this period, the International Union has eliminated weekly strike benefits, imposed a \$1 per member per month "Emergency Assessment" on each Local Union, reduced services to Local Unions by eliminating area conferences in the United States, and freezing retirement benefits for Local Union Officers and employees while maintaining similar benefits for International Union Officers. At the same time, the International Union has made it almost impossible for the International Trustees to complete their examination of the Union's financial records for 1993, has refused to allow them to examine the records for the first half of 1994 (when the Union spent \$89 million with revenues of only \$38 million), and has instructed the Trustees that anything they find during their review is "confidential."

The attempts of members, officers of affiliated Local Unions and the affiliates themselves to publicize and criticize these actions, to band together to secure information and services no longer provided by the International Union, and to reassert democratic control over the Union have been met with threats of retaliation and legal action. These threats and other actions have been deliberately mischaracterized by the IBT's public relations department as attempts by so-called "Old Guard" Teamsters to obstruct efforts at reform. In many instances, these threats have been abetted by the United States Attorney for the Southern District of New York who continues to maintain control through the Consent Decree.

These developments, occurring during the almost six years since the last round of hearings, show a continuing pattern of government control and interference with the democratic operation of the Union long after the principal provisions of the Consent Decree have been completed. This continuing government control and interference makes it fully appropriate for the Congress to inquire through oversight hearings into what has been done to implement the various recommendations made by the Senate Permanent Subcommittee on Investigations in its 1990 Report (Federal

Government's Use of the RICO Statute and Other Efforts Against Organized Crime, S. Rpt. 101-407 (Aug. 1, 1990) and, in particular, into why the Government continues its control and interference with the internal affairs of the IBT.

The IBT

The International Brotherhood of Teamsters is a highly decentralized union with most power vested at the Local Union level. Each of the Union's more than 600 Local Unions is a separate, autonomous labor organization. The members of each Local Union elect their own officers and adopt their own bylaws. Each Local Union has a principal executive officer who "shall, in general, supervise, conduct and control all of the business and affairs of the local union, its officers and employees." Local Union business agents are either similarly elected or appointed by the Local Union's principal officer, and the principal officer is generally responsible for hiring all Local Union employees. The principal executive officer's actions and decisions are subject to approval by the Local Union executive board or membership, not by the International Union or some other subordinate body.

The financial affairs of Local Unions are handled independently of the International Union. Locals maintain their own bank accounts in their own names and own and manage their own real and personal property. The International Union has no right in, or claim to, any such properties. Local Unions establish and collect their own dues, maintain their own treasuries and accounts, pursue their own investment strategies, and negotiate loans. Local Unions levy and collect their own dues and initiation fees at rates established by their own bylaws.

Local unions engage in their own organizing campaigns, negotiate contracts, and call and conduct strikes. Locals elect their own delegates to International Conventions. Membership and membership records are maintained at the Local Union level, not by the International Union.

In short, local unions are self-governing, unincorporated and independent associations whose officials and agents are elected and compensated by their Local Union. Local Union officials act in the name and on behalf of their Local Unions; they are not empowered to act for the International Union. Without express authorization,

International officials are not empowered to act on behalf of Local Unions.

Other Teamster local and regional intermediate bodies are similarly organized and governed as independent entities. Joint Councils are composed of delegates of local unions in a designated locality, generally a metropolitan area such as New York City, Los Angeles or Chicago. Each Local Union affiliated with a Joint Council is entitled to seven delegates who are the elected executive board members of the Locals. The delegates in turn elect the seven officers composing the Joint Council's executive board. Joint Councils are funded by per capita taxes and assessments voluntarily voted by their affiliated Local Unions. The International Union does not fund Joint Councils or select their officers or agents.

State and regional conferences are similarly governed by delegates from each of their constituent Local Unions and Joint Councils. These delegates meet once every four years to elect the conference officers. Those officers then govern the conference and select a Chairman to serve as the chief executive officer. Conferences provide services that are better performed by an organization with a wider geographic base. For example, conferences provide assistance with organizing, research, grievance administration and negotiations for area and national agreements. One conference provided printing and legal services for affiliated local unions.

The IBT Constitution mandates that the IBT Convention, consisting of delegates representing the members of each of the IBT Local Unions, shall meet once every five years (Art. III, § 1):

The International Convention shall be the supreme governing authority of the International Union and shall have plenary power to regulate and direct the policies, affairs and organization of the International Union.

As part of this authority, the delegates have complete power "to propose amendments or additions to the Constitution" and to adopt such amendments "by a majority vote of the delegates present, seated, and voting" (Art. III, § 9(a) and (b)).

Between conventions, the International Union is governed by the General Executive Board ("GEB") which consists of the General President, General Secretary-Treasurer, and 17 International Vice Presidents (Art. IX,

§ 1). Among the powers conferred on the GEB between conventions are "the authority to interpret and apply the Constitution and laws of the International Union and to decide all questions of law thereunder subject to appeal to the next Convention" (*id.*) and the authority to "suspend" and "replace" any provision of the constitution "declared invalid or inoperative by any competent authority of the executive, judicial or administrative branch of state, provincial or federal government" (Art. XXVI, § 2). The IBT Constitution does not contain any provision giving the GEB plenary authority to amend the Constitution.

The Government RICO Suit

On June 29, 1988, the Government filed a civil RICO action against the IBT, the then current members of the IBT General Executive Board, and a number of organized crime defendants. The complaint alleged that the entire Teamsters organization -- the International Union, its more than 600 independently governed Local Unions and dozens of other affiliates including joint councils, state and regional conferences -- constituted a single "enterprise" within the meaning of RICO and that this single enterprise was controlled in all its parts by organized crime. The overwhelming majority of the allegations made in the Government's complaint related to past misconduct at a handful of the Union's 600 Local Unions. Among its other requests, the Government asked the District Court to: (a) order individual defendants found to have committed RICO violations to disgorge the proceeds from those violations including any pension or retirement benefits, (b) order a new election of GEB members under the supervision of a court-appointed trustee, and (c) appoint a trustee who would assume the powers of the GEB until a fair election could be held.

The Government sought the immediate ouster of every one of the Union's International Officers and their immediate replacement by a trustee. The Government sought a preliminary injunction for this purpose supported principally by its summary of numerous FBI reports which were themselves often summaries of interviews with anonymous informants. The Government's request for a preliminary injunction was denied, and a lengthy period of discovery followed. This discovery included the depositions of each of the individual Union officer defendants and required each of those individual defendants to retain his own counsel. The Government then took the position that the Union was prohibited from paying their attorneys fees. As a result,

The Consent Decree made its provisions immediately effective by declaring that "[t]he IBT Constitution shall be deemed and hereby is amended to incorporate and conform with all of the terms set forth in this order" (§ 9(a)), but, in recognition of the paramount authority of the convention of delegates, provided that (§ 12(D)):

At the IBT 1991 International Convention, the delegates shall be presented with these aforesaid amendments [those made by the Consent Decree] for vote; provided further that nothing herein shall be deemed or interpreted or applied to abridge the Landrum-Griffin free speech right of any IBT officer, delegate or member, including the parties hereto. [1]

The Previous Hearings

In hearings that began in April 1988 and concluded in April 1989, shortly after the Consent Decree was entered, the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs undertook to review the Federal Government's Use of the RICO Statute and Other Efforts Against Organized Crime. The April 1989 hearings were devoted primarily to questions that had been raised about the Federal Government's use of the RICO Statute to impose trusteeships on otherwise democratically operated labor organizations.

¹ Paragraph 9(b) of the Consent Decree emphasized this point by providing:

By no later than the conclusion of the IBT Convention to be held in 1991, the IBT shall have formally amended the IBT Constitution to incorporate and conform with all of the terms set forth in this order by presenting said terms to the delegates for a vote. If the IBT has not formally so amended the IBT Constitution by that date, the Government retains the right to seek an any appropriate action, including enforcement of this order, contempt or reopening this litigation.

In an introductory statement, Senator Nunn explained

In bringing these types of cases, the government has clearly crossed over into a new frontier in law enforcement: injecting itself into the direct supervision of the day-to-day operations of labor unions and, under the broad terms of the statute, potentially any other commercial entity. Understandably, this new government role has generated considerable controversy and a host of still unanswered questions, including:

Is this type of government intervention in the private sector ever justified?

If so, how does one determine what cases require this admittedly extreme remedy?

In the case of labor unions, how does one balance this new government role with the rights of union members?

Once a trusteeship is created, how does it operate? What kind of support will it require? What limits, if any, should be placed on its authority?

Finally, what are the chances that trusteeships will succeed where criminal prosecutions alone have not?

Those are just a few of the questions that I hope we will be able to explore during the course of these hearings. They are questions which, given the sweeping and unprecedented nature of this remedy, I believe must be examined in some depth. Along with the considerable power which this remedy affords the government comes the responsibility that that power be used wisely, with caution, and only in appropriate circumstances. In my opinion, I believe that a RICO trusteeship should be sought only in extreme cases and where clearly necessary to root out longstanding and pervasive corruption. In the context of labor unions, a trusteeship must, in my view, always have as its ultimate goal a return to open and honest elections without the fear of intimidation for the rank and file members.

A principal focus of the April 1989 hearings was the recently entered IBT Consent Decree and its effect on the democratic operations of what the settlement agreement described as "the largest trade union in the free world."

During the course of the hearings, Senator Nunn asked witnesses whether the provision of the Consent Decree that specifically afforded the delegates to the 1991 IBT Convention the right to vote on the Consent Decree amendments to the IBT Constitution could "nullify the effect of the agreement." United States Attorney Benito Romano "confirmed the likelihood" that the delegates could "vote against the provisions," void the agreement and force the Government to "go back into court" to prosecute its complaint:

They [the IBT] have retained their First Amendment rights under this agreement, so they can exercise it if they choose to pay that price. But we have told them, and we are saying it again today, that the moment that -- if this agreement is voted down, we expect to be in court seeking to enforce this agreement. And if it is necessary, we will reopen the litigation and go through to final judgment.

The Subcommittee ultimately issued a Report that made several recommendations to limit the Government's use of RICO to impose trusteeships on labor organizations. In part, the Subcommittee recommended that "[t]he Government should seek imposition of trusteeships only in cases where there is no other way to effectively combat longstanding corruption and criminal influence in a labor organization."

The Subcommittee also recommended that the Department of Justice "re-examine its policy and practice regarding the payment by unions of attorney fees for union defendants in civil RICO cases." The Subcommittee noted the claims that the attorney fee issue had been used as leverage by the Government in procuring the IBT Consent Decree and that this created "the appearance that the Government is using the attorney fee issue as an unfair advantage in settlement negotiations."

The Election of Delegates and the 1991 IBT Convention

The provisions of the Consent Decree required that the delegates and alternates to the June 1991 IBT Convention be

elected by the members in Local Unions. Pursuant to these provisions, Court-appointed Election Officer Michael Holland "supervised every facet" of the delegate nominations and elections. M. Holland, The Cookbook: How the Election Officer Supervised the 1991 Teamsters Election 2-1 (1992). The nominations and elections were conducted in each of the IBT's then 651 Local Unions during the last part of 1990 and the first four months of 1991. The Election Officer made eligibility determinations, resolved protests and challenges, and certified the results in each Local Union. Elections were contested in 307 Local Unions. Of the 74 post-election protests seeking rerun elections, the Election Officer ordered reruns in only four. Under this procedure, the Election Officer certified the selection of 1,936 delegates and over 1,030 alternates to the June 1991 IBT Convention.

As noted above, the Consent Decree provided that these freely elected delegates would be allowed to vote on the Consent Decree and the amendments it made to the IBT Constitution at the June 1991 Convention. This provision was included in the Consent Decree in recognition of the provisions of the IBT Constitution which declares that "[t]he International Convention shall be the supreme governing authority of the International Union and shall have plenary power to regulate and direct the policies, affairs and organization of the International Union."

Despite the provisions in the Consent Decree and the IBT Constitution, and despite United States Attorney Benito Romano's statement to the Senate Permanent Subcommittee on Investigations in 1989, the Government obtained an injunction from the United States District Court for the Southern District of New York that prohibited the vote by freely elected delegates from having any effect on the Consent Decree. In February 1991, four months prior to the Convention, the United States Attorney for the Southern District of New York moved for an order declaring that disapproval by the delegates would not affect the Consent Decree.

On March 17, a group of delegates sought to intervene in the proceeding before the District Court for the purpose of opposing the Government's motion and protecting their interests under the IBT Constitution and the Consent Decree. The delegates argued that they had a direct interest in protecting their right to act as the supreme governing authority of the International Union and to vote on the Consent Decree amendments and possible alternatives to those amendments, that this interest would be impaired if the Government was granted the relief it sought, and that the

IBT's officers could not adequately represent the delegates' interests because of their distinct and conflicting interests in preserving the Consent Decree and protecting their own jobs, benefits and personal assets. In particular, the delegates noted that the IBT officers had in fact failed to represent their interests, since the IBT's briefs had failed to argue or even mention that the delegates, and not the officers, were the Union's "supreme governing authority."

On the merits of the Government's motion, the delegates argued that the members of the GEB had no authority through the Consent Decree or otherwise to waive or restrict their rights as convention delegates in any way, that the members of the GEB did not and could not have represented their interests in signing the Consent Decree, that the Consent Decree on its face guaranteed them the right to vote on the Consent Decree amendments, and that the Government's motion abrogated rather than furthered democratic procedures by denying the freely elected representatives of the members of the Union the right to fulfill their constitutional responsibilities. The delegates requested an evidentiary hearing.

The District Court entered its Opinion and Order on May 6, 1991. The Court denied the delegates' request to intervene; ordered that the amendments made to the IBT Constitution by the Consent Decree would remain "part of the IBT constitution . . . regardless of the vote of the delegates at the IBT convention." The delegates' emergency appeal to the United States Court of Appeals for the Second Circuit was denied in a summary order issued on June 7, 1991. The delegates' request for an emergency stay from the United States Supreme Court was also denied.

At the Convention, the democratically elected delegates voted overwhelmingly to disapprove the Consent Decree.

Disciplinary Charges Under the Consent Decree

The Investigations Officer summarized the charges filed under the Consent Decree and the results of those charges in a report issued on September 1, 1992.

The Investigations Officer noted that charges had been filed against 194 individuals and 3 local unions. As a result of these charges, 38 individuals were permanently barred from membership; 53 permanently resigned; 29 were

suspended for a period of time; 12 were awaiting a decision from Independent Administrator Frederick Lacey; 22 others signed an agreement with the Investigations Officer to make restitution and/or change their by-laws, as did the 3 locals; 22 were awaiting hearings; and 9 were found to be not culpable. Charges were withdrawn against 9 individuals. Five individuals previously charged were also awaiting hearings on new charges.

The Investigation Officer further noted that 66 of the charged individuals had been charged with offenses relating to organized crime: 15 were charged with being members of La Cosa Nostra and 17 with failure to investigate allegations of other officers' organized crime associations. As of the date of the Report, 58 of the 66 had been permanently barred or permanently resigned and 7 were awaiting a hearing or decision. The charge against the remaining individual alleging an offense related to organized crime was withdrawn after he was suspended for 1 year on an earlier charge and statutorily barred for 13 years on a criminal conviction independently obtained in federal court.

As of September 1, 1992, charges had been filed against 8 International Union officers. Charges against two International Union officers were upheld and they were barred from Union membership. Two officers were suspended from membership for different periods. Charges against one officer were withdrawn. Charges against another were settled. One officer retired while charges were pending against him. The Independent Administrator found that the Investigations Officer had failed to prove the charges filed against the remaining officer.

As of September 1, 1992, the Investigations Officer had also filed charges against 7 International Representatives (business representatives employed by the International Union). Charges against two of the seven were upheld and they were permanently barred from union membership. Two others resigned and two were suspended. The Independent Administrator found that the Investigations Officer had failed to prove the charges against one International Representative. Charges against the remaining International Representative were still pending as of the date of the Investigation Officer's report.

In sum, only one of the 18 International officers who were defendants in the RICO action was actually removed from his position as a sitting International officer as the result of charges filed by the Investigations Officer. The Investigations Officer brought charges against fewer than 5

percent of the Union's more than 4500 Local Union, Joint Council, Conference and International Officers. And organized crime charges were brought against officers in only 30 of the Union's 650 Local Union's and other affiliates.

1991 Election of
International Union Officers

Election Officer Holland conducted the 1991 Election of International Union Officers. Under the Consent decree the three International Trustees were elected by the delegates at the June 1991 IBT Convention. The other 19 International Officers -- General President, General Secretary-Treasurer, five At-Large International Vice Presidents and 12 Regional Vice Presidents were elected directly by the Union's 1.5 million members by mail ballot. The delegates at the Convention nominated three slates of candidates -- a slate headed by then International Vice President and Freight Director R.V. Durham, one headed by International Vice President Walter Shea, and a slate headed by Ron Carey, the President of Local 804 in New York.

The Election Officer determined that the Union had 1,403,831 members eligible to vote in the election. 424,669 ballots (30.3 percent) were returned and 396,172 (28.2 percent) were counted. The results certified by the Election Officer were

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| Ron Carey | 189,322 | 47.8% of ballots counted 13.5% of eligible members |
| R.V. Durham | 129,670 | 32.7% of ballots counted 9.2% of eligible members |
| Walter Shea | 71,436 | 18.0% of ballots counted 5.1% of eligible members |

The other members of Mr. Carey's slate were also elected. Calling themselves "The New Teamsters," Mr. Carey and his slate took office on February 2, 1992.

Recent Developments Within the Union

When the Carey administration took office in February 1992, it promised to be fiscally responsible and to conduct an open administration that would allow members to participate in Union affairs and keep them fully informed about the Union's actions and policies.

The International's actual policies and actions belied these promises. The first indications came when the International refused to call a special convention of the elected delegates to deal with the Union's deteriorating financial condition and instead embarked on an unprecedented spending spree. At the beginning of 1992, the Union had \$115 million in reserves. Figures provided by the General Secretary-Treasurer to International Union Officers, but not to the membership, show that as of June 30, 1994, the Union's net worth had dropped to \$7.3 million. Along with government reports filed for 1992 and 1993, the General Secretary-Treasurer's report shows that during the 30 month period from January 1, 1992, to July 31, 1994, the International Union spent \$345 million while taking in only \$190 million. The International Union ran a deficits of \$57 million in 1992, \$51 million in 1993, and another \$51 million during the first six months of 1994.

Despite these staggering deficits and the resulting rapid decline in its reserves, the International Union failed to take any meaningful steps to deal with its worsening financial condition, even though the General President and the General Secretary-Treasurer warned the other International Union Officers in December 1992 that the situation was "critical." At that time, both Officers advised that "It may soon be necessary to address this problem at a Special Convention." However, the International Union did not call a special convention to deal with the Union's "critical" financial problems, as the International Union Trustees and the officers and members of Local Unions throughout the Union repeatedly urged.

Nor did the International Union implement any of the other cost-cutting measures recommended by the Trustees. For example, the International Union did not effectively limit, freeze or reduce staff; did not cease paying the employee's portion of FICA; and did not limit travel or impose more stringent controls on travel expenses.

Instead of calling a Special Convention at which elected delegates from each Local Union and other affiliates could make, discuss, debate and vote on various proposals to deal with the Union's financial problems, the new

administration decided to conduct a mail referendum calling for an amendment to the IBT Constitution that would increase dues by 25 percent. The International Union announced the referendum in mid-January 1994. In early February, the Chairmen of the four United States Area Conferences issued a joint statement opposing the take-it-or-leave-it referendum and calling for a special convention instead. Shortly thereafter, the Conference Chairmen discovered that, instead of the customary neutrally worded ballot bearing simple "YES" and "NO" choices, the International had printed ballots bearing the choices "Yes, I approve the amendments to build a stronger Union" and "No, I do not approve these amendments." The conference chairs filed suit in the United States District Court for the District of Columbia, asking the Court to enjoin use of the slanted ballot.

The referendum was defeated by a margin of 3-1. The Independent Referendum Supervisor counted 554,322 ballots in the referendum, almost 40 percent of the eligible members and significantly more than the number (424,669, 30.3 percent) that voted in the 1991 International Officer Election. There were 123,558 YES votes and 387,420 NO votes.

As the referendum vote count got underway and it became apparent that the administration's dues increase proposal was going down to a stinging defeat, General President Carey recommended abolishing the four United States Area Conferences and thus eliminating the offices held by the four Conference Chairmen who had joined in opposing the referendum and filing suit against use of the slanted ballot, and eliminating the Conferences and the Conference Chairmen as an effective counterweight to the policies pursued by the International.

After several postponements, the General Executive Board concluded hearings on General President Carey's recommendation to revoke the conference charters in early June. The Conferences submitted hundreds of thousands of signatures opposing the recommendation and dozens of witnesses detailing the services provided by the Conferences. The hearings were chaired by one of the members of Mr. Carey's slate. Despite repeated requests, none of the "evidence" supporting Mr. Carey's proposal was provided to the Conferences before the hearings. The Conference Chairs were not allowed to cross-examine the witnesses against them and they were prevented from calling dozens of more witnesses who had asked to appear and testify on their behalf. The hearings were conducted throughout the Memorial Day weekend and often continued until midnight or 1:00 a.m. In the midst of the hearings, the two

International Vice Presidents representing Canada expressed their disgust, walked out and refused to participate any further in the proceeding. Despite the hundreds of exhibits and more than 2500 pages of testimony from witnesses that were allowed to appear, the Conferences were denied the opportunity to present any written summary of their arguments against the General President's recommendation.

The General Executive Board with General President Carey participating voted 14-3 on June 9 to revoke the Conference Charters. Personal Representatives appointed by General President Carey began shutting down the Conferences and dismissing employees the following Monday, June 13.

In April 1994, the International Union was forced to borrow \$15 million to pay strike benefits for striking freight employees. That month, the International Union reported that its net assets had dropped below \$20 million. As a result, the International, in accord with Article X, Section 2, of the International Constitution, imposed a \$1 per month per member "Emergency Assessment" on each local union. Without any corresponding increase in membership dues, this increased each local union's monthly per capita to the International by more than 25 percent.

Then, effective June 1, 1994, the International Union cut off the weekly strike benefits paid to all striking members. The International has not paid benefits to any striking member since that time.

In September 1994, the International Union Officers froze retirement benefits for Local Union Officers and employees while maintaining similar benefits for International Union Officers.

Although the International continues to run up huge deficits, has imposed what is effectively a \$1 per member per month additional tax on each Local Union, has eliminated the Conferences and thus cut off the services they provided to Local Unions and other affiliates, has eliminated strike benefits and has frozen retirement benefits for Local Union officers and employees while continuing to fund their own, the International has failed and refused to provide any accurate and meaningful information to Local Unions, other affiliates and their members about the Union's financial condition.

In this respect, the International Union has made it almost impossible for the International Trustees to complete their examination of the Union's financial records for 1993, has refused to allow them to examine the records for the

first half of 1994 (when the Union spent \$89 million with revenues of only \$38 million), and has threatened the Trustees that anything they find during their review is "confidential" and therefore cannot be disclosed to Local Union officers, the officers of other affiliates or to the membership.

The attempts of members, officers of affiliated Local Unions and the affiliates themselves to publicize and criticize these actions, to band together to secure information and services no longer provided by the International Union, and to reassert democratic control over the Union have been met with threats of retaliation and legal action. These threats and other actions have been deliberately mischaracterized by the IBT's public relations department as attempts by so-called "Old Guard" Teamsters to obstruct efforts at reform.

The problems created by the International Union's policies led members and officers in July 1994 to form two voluntary organizations -- The Real Teamsters Caucus and The Teamster Affiliates Defense and Education Fund. The Caucus was formed to provide members and officers with information on what is going on in the Union and with a forum in which they can meet and discuss the Union's problems and recommend mutual action to rebuild the Union and its treasury. The Defense and Education Fund is designed to support specific educational projects to inform members, officers and affiliates about their rights and to support litigation to protect those rights.

Shortly after these organizations were founded, General President Carey, General Secretary-Treasurer Tom Sever, General Counsel Judy Scott and other members of the administration began threatening to file internal union charges and take other unspecified legal action against Local Union and Joint Council officers who authorized contributions to support the Caucus and the Defense Fund.

The Landrum-Griffin Act specifically guarantees (29 U.S.C. § 411(a)): "Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments, or opinions" A number of officers and affiliates joined together to file a lawsuit in the United States District Court for the District of Columbia to protect these rights and to enjoin the International Union and its officers from retaliating against officers and affiliates who exercise these rights through the Caucus and the Defense Fund. - The International Union and the defendants continue

to publish these threats through the Union's electronic mail system even after the suit was filed.

Continued Government Interference

Despite provisions of the Consent Decree that ended the jurisdiction of the three court-appointed officers following the 1991 Election, the Consent decree continues to interfere with the normal operation of the Union.

Important issues concerning the continued administration of the Consent Decree have been repeatedly decided between the United States Attorney for the Southern District of New York and the current administration without any notice or opportunity for input from any of the other parties to the Consent Decree or from any of the affected affiliates. For example, the United States Attorney and the International Union agreed to appoint Amy Gladstein to supervise the 1996 Election of officers without notice or opportunity for any affiliate to participate or comment. That this critical appointment occurred in this almost secretive manner is particularly troubling given that Ms. Gladstein will be supervising an election in which Mr. Carey will be seeking reelection, presumably against opponents from various affiliates whose views are opposed to his. This is completely unlike the appointment of the three court-appointed officers under the Consent Decree, which was open and during which all of the individual defendants had the opportunity to participate and comment.

The same closed, almost secretive process has also been followed with respect to potential Consent Decree issues concerning the elimination of the Conferences, the direct election of the International Trustees as part of the 1996 Election, granting Ms. Gladstein supervisory powers the equivalent of those exercised by former Election Officer Holland under the Consent Decree with respect to the 1991 Election and the appointment of a special master to hear appeals from Election Officer Gladstein's rulings on election protests, challenges and other matters during the 1996 Election. Each of these important issues was and is being determined by the United States Attorney in consultation with the International Union and without regard to notice or comment from any other interested party within the Union. The appearance of favoritism and collusion is unavoidable.

The International Union has also taken advantage of the continued pendency of the Consent Decree in the United

States District Court for the Southern District of New York as an excuse to use that forum as a "super" court for hearing any and all issues involving the administration of the Union. Through one artifice or another, the International Union's lawyers have attempted to funnel all litigation concerning the current administration's stewardship to the Southern District, even though the customary location for such litigation is in the District of Columbia where the International Union is located or in the District where the International Union's action is effectuated.

When the International Union determined to conduct the mail referendum on its proposed 25 percent dues increase, it filed a pre-emptive declaratory judgment action in the Southern District seeking to have that Court hold that the IBT Constitution in fact provided for its amendment through such a referendum rather than solely through the convention process which had been the only recognized method for amending the Constitution in the past. The International Union picked an outspoken Local Union and Joint Council officer from Detroit as its straw defendant in the case, thus forcing that officer to defend himself in New York at significant added expense and inconvenience.

This pre-emptive declaratory judgment action was also filed in order to funnel all complaints concerning the referendum to the Southern District, even though the normal location for such litigation would be the District of Columbia where the International was printing, mailing and counting the ballots. When, for example, the Conference Chairmen filed their lawsuit against the slanted ballot, the International Union responded by asking the District of Columbia judge assigned to the case to transfer the action to the Southern District. It was.

The International Union filed a similar pre-emptive declaratory judgment action in the Southern District simultaneously with the announcement by General President Carey of his recommendation to revoke the Conference charters. Again, this had the effect of funneling all litigation concerning revocation of the Conference charters to the Southern District, instead of allowing it to proceed in the District of Columbia.

A similar motion is pending to transfer the lawsuit filed against the International Union in the District of Columbia concerning its threats against officers authorizing contributions to the Real Teamsters Caucus and the Teamster Affiliates Defense and Education Fund. The motion has stalled any decision on the merits and the vindication of

the free speech rights of members, officers and affiliates to effectively criticize the policies being pursued by the current administration.

Finally, there is no fixed end to the Consent Decree. Although the provisions empowering the Independent Administrator, Investigations Officer and Election Officer ended their authority after the 1991 Election, the Consent Decree fails to provide any deadline for ending the Government control. Indeed, the so-called "Future Practices" provision of the Decree has been interpreted to give the United States Attorney a virtual veto power over any amendments to the Union's Constitution, including in any changes in the Union's structure and organization. As Senator Nunn suggested in April 1989, such broad governmental authority is inconsistent with the ideal of a democratically controlled labor organization which is the fundamental goal of federal labor law.

This brief review demonstrates that the United States Congress should hold oversight hearings to review the continued use of the RICO statute to control the internal affairs of the International Brotherhood of Teamsters. Those hearings should provide an opportunity for members and officers from all segments of the Union to testify about the effect of the Consent Decree and the Government's continued control on democracy, free speech and political dissent within the Union.

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