The Right to Work NATIONAL NEWSLETTER

Published By The
NATIONAL RIGHT TO WORK COMMITTEE
125-B Cafritz Bldg., Washington 6, D. C.

Vol. II, No. 4 May-June, 1956

Decision Stirs Public

The Supreme Court's decision in the Union Pacific Railroad case that the Railway Labor Act overrides conflicting State Right to Work laws has stirred up an apparent wave of concern over the country, and many have written or called the National Right to Work committee asking what can be done to restore individual rights and state sovereignty in labor-management matters.

The Court held that, although states may pass and enforce right to work laws generally, they become null when the Federal Congress legislates in the same field. Thus, in this case, the Court held that railroads and unions could sign union shop contracts since the Railway Labor Act specifically permits them, despite 18 state Right to Work laws that say they are illegal.

> This is the High Court's "doctrine of federal preemption" which has come under such widespread fire recently by those who believe in the sanctity of state's rights and constitutional guarantees against dangerous centralization of power. (For a more complete analysis of The Court's decision, see Page 3.)

* * *

DANGER GREATER THAN EVER—The Supreme Court's ruling has warned all who believe compulsory unionism threatens American democracy that they must be willing to join at once in a determined fight of major proportions if they expect to combat it, Nathan Thorington, board chairman of the National Right to Work Committee, declared in a press statement. Mr. Thorington is president of the Thorington Construction Company, Richmond, Va.

"By this ruling, they have taken away from railroad and airline workers the protection against forced union membership which 18 states thought they had provided in their own Right to Work Laws," he pointed out. "Likewise, they have served warning that one simple amendment to the Taft-Hartley Act, knocking out the clause that specifically permits states to pass laws banning compulsion would destroy such protection for all other American workers."

"The Court's decision is a bitter blow to all who believe our Constitution was intended to and does protect the rights of American citizens against forced allegiance to any private organization, and against confiscation of their money and property against their will," Mr. Thorington declared.

> "However," he added, "it may have served one important purpose: that of shocking thousands of people into a realization of the very real threat to these rights and liberties which exist today.

"We firmly believe that the great majority of American people vigorously oppose such unwilling regimentation of workers, once they really understand what

AMERICANS MUST HAVE THE RIGHT, BUT NOT BE COMPELLED TO JOIN LABOR UNIONS

compulsory unionism means," he declared. "The calls and letters we have received from many persons all over the country since the Court's decision have strengthened that belief."

Mr. Thorington said that the National Right to Work Committee was pledged to continue its national campaign to bring the true facts about compulsory unionism to the people of all the states.

Many suggestions have been made for action to offset the Court's decision and other developments in the trend towards compulsory unionism. Among them are:

1. Guard against any amendment which would eliminate Section 14(b) of the Taft Hartley Act, and thus wipe out the protection of State Right to Work laws for non-railroad workers;

2. Work for repeal of the provision in the Railway Labor Act which permits the union shop, despite state laws to the contrary (this provision was just added to the law by amendment in 1951);

3. Encourage the passage of right to work laws in the other states where citizens are working to protect their rights against compulsory unionism, and to defend such laws against repeal in states that have already passed them; and,

4. If it finally appears that it is necessary, combine forces to put through an amendment to the Federal Constitution, guaranteeing once and for all the right to work with or without membership in a union.

"The relatively few leaders of the big national unions who are fighting so bitterly to force all workers into their folds freely boast that their efforts and vast financial resources are being devoted to making compulsory unionism nationwide in all labor fields," Mr. Thorington declared. "It is now well past time for the vast majority of Americans, including millions of the members of these very leaders' unions, to take a stand in favor of the individual rights which were once the most important foundation stone in the American system.

"We have come a long way towards collectivization. We can't afford to go any further."

* * *

NEW BILL TO DESTROY RIGHT TO WORK--Freshman Congressman John Dingell of Michigan has thrown another bill into the House hopper intended to kill all state right to work laws by repealing Section 14(b) of the Taft Hartley Act, which specifically declares that states may bar compulsory unionism, despite the federal law's permission of it.

Union publications continue to call for such action this session, as well as for even further loosening of the secondary boycott restrictions of Taft Hartley and certain other legal changes that will give them still more power in forcing union membership on all workers. However, there is as yet no good indication of whether action will come this term, and many observers now doubt it.

Senator Paul Douglas, (D.-Ill.) chairman of a Senate Labor subcommittee has promised to lead a fight to kill 14(b) (See Newsletter Vol. II, No. 3) but as yet no hearings have been set.

* * *

ONLY 53 GUILTY--The Criminal Division of the Justice Department has reported the conviction of 53 labor officials in 1955, about double the number convicted in 1954. This is a small percentage of the many thousands of local and national union officials in the United States, and is further indication that by far most union officials are honest and sincere men.

But if only one were found guilty of using his union position for self gain, instead of for the benefit of the members under him, it would seem to be all the argument needed to outlaw compulsory unionism. How can anyone condone a system that forces a worker to become an unwilling member of any private organization--

(Continued on Page 4)

The Supreme Court's Decision

An Analysis of the Decision in the case of

Railway Employees' Dept., A. F. of L. v. Hanson, Et Al.

by Gall, Lane and Howe, General Counsel, National Right to Work Committee

On Monday, May 21, 1956, the Supreme Court of the United States handed down its decision in the widely discussed *Hanson* case in which the constitutionality of the Union Shop amendment to the Railway Labor Act had been challenged. The Court held the amendment constitutional.

The case had arisen in Nebraska where certain non-operating employees of the Union Pacific Railroad—who were also non-members of the various Railroad Unions—had sued to enjoin the Union Pacific and the unions from putting into effect a union shop agreement executed in accordance with the Union Shop amendment to the Act. Nebraska is one of the eighteen states that have Right to Work laws. The Union Shop amendment to the Railway Labor Act expressly overrides these state laws insofar as railroad workers are concerned.

In holding the union shop on the railroads constitutional, the Supreme Court was careful to note that its decision in no way affected the validity of state Right to Work laws applied to non-railroad employees. The Court pointed out that it had held the Right to Work laws themselves to be constitutional in 1949 in *Lincoln Union* v. *Northwestern Co.*, 335 U.S. 525 and *American Federation of Labor* v. *American Sash & Door Co.*, 335 U.S. 538.

Thus, the net effect of the Court's decision is to leave both compulsory unionism and state Right to Work laws within the protection of the Constitution. Practically, this means that the repeal by Congress of Section 14(b) of the Taft-Hartley Act—which authorizes the states to enact Right to Work laws—would eliminate all legal protection for the Right to Work, since the Constitution has now been held to afford no barrier to compulsory unionism.

Certain aspects of the Court's opinion in the *Hanson* case require special comment.

It had been strongly argued by the various unions involved in the case that since union shop agreements arise merely by contract between private persons, the discharge of employees under such agreements was wholly private action which is not subject to the limitations which the Constitution imposes on Governmental action. The Court disagreed with this contention. It held that since the power of the unions and the railroads to execute union shop agreements stems from an Act of Congress, that power is subject in its exercise to constitutional limitations.

The Court further pointed out that the only question presented by the record in the *Hanson* case was the power to compel contributions to "the collective-bargaining agency by all who receive the benefits of its work." In other words, the Court limited its decision to the so-called "free rider" argument. It decided merely that since a union acts as the bargaining representative for all employees in a craft or unit, it is not unconstitutional for it to require all those employees to pay it for its services as their bargaining agent.

The Court expressly reserved for decision in future cases problems which might arise from union attempts to restrict rights of free speech of their members, or to apply funds collected from them to uses other than expenses of acting as collective bargaining agents.

Whether these reservations by the Court have any practical significance remains to be seen. Difficult questions of proof would be presented in any attempt to show that a union had applied the funds of a particular member to political or other non-collective bargaining purposes.

on threat of going without work if he refused--when even a few of such organizations are shown to be susceptible to control by crooks or Communists?

* * *

RELIGIOUS FREEDOM LOOMS AS ISSUE--Union leaders fighting so desperately to force all American workers to join their unions or go without work are becoming increasingly worried at the growing attention being focused on such compulsion by Americans who are prohibited by their religious beliefs from joining a union.

In addition to the two legal fights now before the Supreme Court spokesmen for the Old German Baptist Brethren, from Ohio and Pennsylvania, have made two recent trips to Washington to seek some agreement under which their members can work in industry without being forced to join a union against their beliefs.

They have conferred with Secretary of Labor Mitchell and other government leaders, as well as with George Meany and other labor officials, but got little assurance of help. They said their 4,000 members could not join unions because of their doctrine of non-violence, but as more and more of their youths were forced to leave the farms for economic reasons, they were increasingly being confronted with the fact that many industries have signed union shop contracts, and refuse them the right to work as non-union men.

> "Because of the violence sometimes resorted to, the coercion and compulsion, the picketing and other means of force which sometimes leads to destruction of property and sometimes bloodshed which are un-Christian in character, we cannot reconcile these acts with our profession of faith", they declared.

Their plight received wide attention from the press, and their stories were printed throughout the nation, to the discomfort of union leaders seeking to spread compulsory unionism still further.

* * *

84 MORE WORKERS SACRIFICED--There's been a lot written and talked about civil rights and individual liberties in America in the past few months. The Supreme Court has ruled in several momentous cases where it held civil rights were being violated, and time after time "liberal" groups and their fellow defenders had cried out in support of Communists and Socialists brought to the light of public scrutiny.

However, it was notable that none of this breed so much as whispered a protest when still another group of American workers were fired the other day--for the "crime" of belonging to the wrong union.

These 84 employes of the Baltimore and Ohio Railroad, didn't like the way the Brotherhoods were being run, including the fact that it demanded a union shop contract with the B. and O. So they resigned and joined a new union opposed to compulsory unionism--the United Railroad Operating Craft. The latter, however, has not been determined to be a union "national in scope" and thereby, the courts held, members of it are not protected under the union shop provision of the Railway Labor Act.

The workers then sought readmission to the brotherhoods in order to protect their jobs, but the brotherhoods' officials refused to let them rejoin, and demanded that they be discharged by the B. and O. under terms of the union shop contract. They again sought court protection under the provision of the Railway Labor Act which says that

> "No such agreement shall require such condition of employment (forced membership in a union) with respect to employees to whom membership is not available upon the same terms and conditions" as to other employees, or "to employees to whom membership was denied or terminated for any reason other than the failure of the employee to tender the periodic dues, initiation fees and assessments..."

The courts, however, still refused them relief and the B. and O. contended that it had to honor the contract it had signed. The men were dismissed, and the union bosses had succeeded in getting another 84 Americans fired because they sought to exercise their rights as individuals and citizens.