

Progress Report

NATIONAL RIGHT TO WORK LEGAL DEFENSE AND EDUCATION FOUNDATION

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Court rules favorably in SEAY case . . .

The Ninth Federal Circuit Court of Appeals ruled on June 3, 1970 that employees may now carry their complaints against unions spending their compulsory dues for politics, directly into the federal courts.

Until now, all such complaints had to be filed with the unsympathetic National Labor Relations Board.

The Court reversed a lower court and instructed the court to hear the case of **GEORGE SEAY** and 28 other employees of McDonnell-Douglas Corporation. Seay wants the court to prevent the union from spending his compulsory union fees for politics.

Reed Larson, Executive Vice President of the National Right to Work Foundation, hailed the decision as a major breakthrough. He said:

"Now, employees all over the country can go directly into court to have their cases heard. At last we will have the union bosses on the defensive and we will be able to ask the courts to outlaw the use of compulsory dues for politics."

Larson pointed out that much of the union's political funds come from men and women who are forced to pay union dues and fees in order to hold their jobs.

He said that unions spent over \$60,000,000 in 1968 in the Humphrey for President campaign. Yet 44% of union people voted against Humphrey even though their dues went into his campaign.

With the assistance of the Foundation, George Seay and 28 other employees brought

suit in the Federal District Court in Los Angeles in 1967 to prevent the International Association of Machinists and Aerospace Workers from using their compulsory agency fees to support political candidates and doctrines which they oppose.

The District Court dismissed the case holding that the workers' only recourse was to process a complaint through the National Labor Relations Board.

On June 3, 1970 the Court of Appeals for the 9th Federal Circuit held that the collective bargaining agreement imposes upon the union the well-recognized duty of fair representation towards all employees. And that this duty is breached when a Union's conduct toward a member of the collective bargaining unit is "arbitrary, discriminatory or in bad faith."

The Court noted that the union's answer to the workers' charge acknowledged that money extracted by agency fees from the employees was used for political purposes and the election of political candidates. The Court, therefore, concluded that an action for a breach of fair representation may be brought in any District Court of the United States having jurisdiction of the parties.

In reversing this decision, the Court of Appeals also pointed out that the employees have raised a constitutional question of abridgment of rights guaranteed to them under the First, Fifth, and Ninth Amendments, and have proper grounds upon which to maintain such action in Federal Courts.

In commenting on the issues raised in the complaint, the Court said:

“The diversion of the employees’ money from use for the purposes for which it was exacted damages them doubly. Its utilization to support candidates and causes the plaintiffs oppose renders them captive to the ideas, associations and causes espoused by others. At the same time it depletes their own funds and resources to the extent of the expropriation and renders them unable by these amounts to express their own convictions, their own ideas and support their own causes.”

The Court concluded that, “while the extraction of money of agency fees was pursuant to the bargaining agreement, we find nothing in the agreement which permitted the expenditure of the funds for an unauthorized purpose.

It was this asserted misuse of the funds which is the basis of the litigation.”

The National Right to Work Foundation praised the Court’s decision in these words:

“The Court’s well-reasoned opinion has recognized the significance of this case and the constitutional issues presented. It is a major victory for American wage-earners. This decision will give the United States Courts the opportunity to fashion an effective legal remedy for workers whose compulsory dues are used by union officials for political purposes.”

The National Right to Work Legal Defense and Education Foundation is a non-profit organization established to render legal aid to workers who are suffering legal injustice as a result of employment discrimination under compulsory union membership arrangements.

Affiliated with but separate from the National Right to Work Committee