

ACLU Asks High Court to Reverse

By John P. MacKenzie
Washington Post Staff Writer

The American Civil Liberties Union urged the Supreme Court yesterday to reverse the 1964 jury-tampering conviction of Teamster President James R. Hoffa and the related conviction of Z. T. Osborn, one of his lawyers.

In briefs filed as friend of the court, the ACLU said the Justice Department's use of "informers" and "spies" to gather evidence had violated

fundamental rights to privacy and the advice of counsel.

The cases will be argued next month, shortly after the justices return for the fall term. Hoffa seeks to overturn an eight-year prison sentence and \$10,000 fine. Osborn faces a 3½-year jail term.

Government's Side

The Government argues that its use of informants was a legal method to protect the jury system and that even if the Court disagrees, the prose-

cution did not profit from any invasion of defense rights.

Hoffa's conviction was for tampering with a jury at his 1962 trial in Nashville, Tenn., for violation of the Taft-Hartley Act. The jury could not agree on a verdict.

Evidence that the jury had been tampered with came from Edward G. Partin, a Teamster official from Baton Rouge, La., who was a Hoffa bodyguard during the trial. Partin had volunteered to help the Government and was acting under instructions to watch out for wrongdoing.

Out of the jury-tampering trial came the charge that Osborn counseled another Teamster associate, Robert D. Vick, to offer a bribe to a prospective juror. Vick's testimony

of conversations with Osborn was buttressed by a tape recording made from a machine concealed on his person.

ACLU's Case

The ACLU said that Partin, acting as a Government agent, conducted what amounted to a "search" of Hoffa's quarters without a warrant and without knowing consent of the suspect. His testimony should have been suppressed as the fruit of illegal entry, the brief added.

Government lawyers have responded that any invasion of privacy and counsel rights could only have tainted the first trial. The ACLU said the taint "permeated" the second trial by its mere use.

"It is the hallmark of a po-

Hoffa's Conviction

lice state to place individuals under surveillance merely because they have aroused the enmity of the authorities," the ACLU said.

Stress Osborn's Claim

The ACLU did not discuss the contention of Jacob Kossman, attorney for Osborn, that the tape recording was the fruit of forbidden electronic eavesdropping. The Supreme Court upheld the use of recordings to corroborate testimony of a Government agent in 1963.

Instead of ACLU stressed the claim that Osborn was entrapped by Vick's initiatives that began when Vick volunteered that he knew one of the prospective jurors.

If the Court continues to permit Government agents to obtain incriminating information by such deception, the brief said, it should bring such methods under court control. The ACLU suggested a requirement that a judge find probable cause — the standard for search warrants — before allowing agents to pose as friends and co-conspirators of the suspects they are investigating.

The ACLU brief said lawyers may be discouraged from investigating the background of prospective jurors or other-

wise fully representing their clients if they are prey to secret informers.