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LABOR SUPPORTS THE JUSTICES

by Marty Morgenstern

The Alameda Building Trades Council is angrily proclaiming that "We've Been Lied To!" This is the title of their publication calling for a "yes" vote for all six California Supreme Court Justices whose names will be on the November ballot. Each must get over 50% of the vote or be removed from office; If any are defeated, Governor Deukmejian will fill the vacant seats with justices of his own choosing.

H. L. Richardson, a State Senator who has in the past run for U.S. Senate and Lt. Governor and has been staff director of the John Birch Society, is leading a highly political anti-court movement that seeks to purge three of the justices. They are:

Justice Joseph Grodin, a former labor law professor and perhaps the judiciary's foremost labor expert;

Justice Cruz Reynoso, a distinguished lawyer and judge with special expertise in individual and civil rights;

and Chief Justice Rose Bird, the first woman ever to sit on the California Supreme Court, and formerly a Supreme Court law clerk, a highly experienced appellate lawyer, and a member of the California Governor's Cabinet.

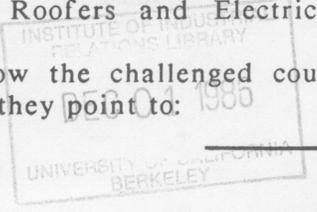
Recognizing that the issues of law, order and the death penalty are of importance to union members, the Building Trades publication accuses the leaders of the current anti-court campaign of repeatedly lying to the public on this issue, and even bragging about their right and intention to keep lying if that's what it will take to win. The court's opponents claim that the Justices have have been soft on crime but the union brochure points out the following:

- * All defendants sentenced to death since 1977, are still in prison.
- * The court approved the first execution over five years ago; federal courts are now reviewing the case.
- * The previous Chief Justice (appointed by then Gov. Reagan) wrote the decision banishing capital punishment in California. That decision reversed 130 death sentences!
- * The current California Supreme Court upheld the California Death Penalty Statute in 1979.
- * From 1980 to 1984 the crime rate in California dropped 20%.

To prove that the opponents are not shy about what they are doing, the labor brochure points to the following quotes from the anti-court forces: "I think I ought to have the right to lie to you if I think it will help me win." -- Bill Roberts, chief strategist, Anti-Court campaign. . . . "Will it be a tough, dirty campaign? Hell yes!" -- H.L. Richardson.

The union publication which reveals all this is endorsed by John Henning Executive Secretary of the State Federation of Labor; Jerry Cremins, President of the State Building and Construction Trades; all of the County Building Trades Councils in Northern California; and the State organizations of the Laborers, Carpenters, Teamsters Council 17, Bricklayers, Painters, Pipe Trades, Plasterers, Cement Masons, Roofers and Electrical Workers.

These unions are, of course, also vitally concerned about how the challenged court members have voted on issues of importance to labor. Here is what they point to:



The California Supreme Court has upheld workers rights by ruling:

- * Union workers have the right to picket even when it means they must picket on private property. -- Sears Roebuck vs. Carpenters District Council of San Diego.*
- * That unemployment benefits cannot be denied when a worker is unfairly fired for refusing to perform unsafe work. -- Rabago vs. Unemployment Insurance Appeals Board.*
- * Union organizers have the right to speak to workers on the company's property -- Agricultural Labor Relations Board vs. Superior Court.*

Two decisions going beyond the severe limitations imposed by state workers compensation law held that:

- * An employer could be sued for lying to a worker about the danger of asbestos. -- Johns-Manville Corp. vs. Superior Court.*
- * An employee injured by toxic materials may sue an employer for damages. -- Foster vs. Xerox Corp.*

The majority on the current California Supreme Court has consistently defended the employment, health, economic and civil rights of workers. Further through decisions that treat police officers with dignity and decency, the court gives strong support to the war on crime. There is evidence that unless the three justices win and retain their seats, this will change for the worse.

The court appointees of former Governor Ronald Reagan have consistently disagreed with court decisions recognizing workers' rights. A court majority upheld a law which allowed police officers to receive compensation after heart attacks, thus legally recognizing that police work can be a strain on the heart. But Reagan's two appointees dissented, calling the law unconstitutional. Two years later when the court majority found that punitive damages could be awarded to a victim of a wrongful discharge, two Reagan appointees on the court were still the only dissenters. When the Rose Bird Court upheld the police officers' bill of rights (*Baggett*) and it found that city workers fired for taking a job action were entitled to due process (*Gridley*), Justice Richardson -- the only Reagan appointee on the court -- was also the only dissenter.

If the three judges opposed by the Richardson anti-court forces lose, their replacements will be appointed by Governor Deukmejian, who has made it clear, by word and deed, that he appoints judges who vote just as those appointed by ex-Governor Reagan did. Thus the majority that supported employee and police officer rights will be gone.

The problem doesn't end there. The American labor movement would have achieved little if workers were not able to strike when all else failed. The right and ability of American workers, public and private, to use this weapon, has been under attack by management forces in recent years. Not long ago the three justices being attacked upheld this important right for California public workers. Chief Justice Rose Bird has made her position especially clear:

"...[T]he right to strike must be counted among those constitutionally protected 'liberties' that are essential to human freedom....And, it is a weapon that employs the constitutionally favored methods for promoting change: peaceful association and expression. Surely, the Constitution protects the efforts of working people to preserve and expand their liberties by means of nonviolent--albeit outspoken and impolite--forms of association and expression."

"....While working people cannot compete with wealthy individuals or corporations in paying for access to mass communications, they can bring their causes to the public's attention by withholding the one asset that they possess in abundance--the capacity to engage in productive labor."

The Chief Justice's writings were in a concurrence with the majority decision upholding the rights of Los Angeles sanitation workers (SEIU Local 660) to strike. Governor Deukmejian's only appointee then on the court vigorously disagreed.

-- Marty Morgenstern

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