WEEKLY NEWS LETTER

FROM

CALIFORNIA STATE FEDERATION OF LABOR

402 FLOOD BUILDING — 151 — SAN FRANCISCO, CALIFORNIA

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ATTORNEY GENERAL'S OFFICE ISSUES OPINION THAT "RIGHT-TO-WORK" PETITION SHOULD NOT BE PLACED ON BALLOT

(CFLNL)SAN FRANCISCO.--The so-called "right-to-work" petition will not be placed on the ballot in the coming election, unless further action is taken, which will have to be decided by the courts. This is the gist of an opinion issued by the Attorney General's office at the request of Secretary of State Frank M. Jordan, who asked whether the initiative measure titled "Regulating Mode of Collective Bargaining and Solicitation of Labor Union Membership" should be placed on the November 1948 ballot.

On April 12, 1946, the Attorney General's office issued a title and summary for this measure, and petitions were thereafter circulated for signatures and filed with the various county clerks. The initial certified petition was received by the Secretary of State May 9, 1946, which was more than 130 days prior to the general election of November 1946. On August 26, 1946, the Secretary of State received a supplemental certified petition which apparently established that the measure had received the requisite number of electoral signatures.

In effect, according to the Attorney General's office, the legal question propounded by the Secretary of State was whether or not the measure had lapsed by reason of the fact that such qualification had occurred less than 130 days prior to the general election. The Attorney General's office is of the opinion that this legal question does not arise, since it does not appear that the measure actually qualified.

Investigation revealed that at least 2,434 signatures must be disregarded. This circumstance, according to the Attorney General's office, arises from the fact that the official summary date was April 12, 1946, and under Section 1407 of the Elections Code, all original petitions have to be filed with the county clerks or registrars not later than 90 days thereafter. The deadline for filing the original petitions was, therefore, July 11, 1946. The petitions containing the 2,434 signatures, which were presented to the county clerks more than 90 days after the official summary date, should not have been accepted for filing, and therefore should not be included in any computation made for the purpose of determining whether the measure has qualified.

In addition to these technical objections, the opinion of the Attorney General's office points out the Gage v. Jordan case, which held that when an initial certified petition is received by the Secretary of State's office 130 days or more before a general election, the measure must qualify for the ballot prior to that election; otherwise it lapses. As a result of this opinion, this petition, which was essentially the same as the "right-to-work" measure defeated in the 1944 elections, will not be placed on the ballot. If court action is resorted to by the sponsors of the measure, the Federation will participate in the proceedings as amicus curiae.

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IMPORTANT BUTCHERS VS. A & P CASE CONCLUDED BEFORE NLRB IN LOS ANGELES

(CFLNL)SAN FRANCISCO.--Taking the position that retail meat market operations are not within the scope of the so-called "Labor-Management Relations Act of 1947," Butchers Local 421 and its parent body, the Amalgamated Meat Cutters of America, finished submitting its case before an NLRB Trial Examiner in Los Angeles, after piling up a complete record in substantiation of their contention.

The case came to a close on January 26, after four weeks of continuous hearing of the complaint issued by General Counsel Denham against the union, alleging refusal on the union's part to bargain with

the Great Atlantic & Pacific Tea Company and discrimination against the meat market employees in the southern California stores of the company.

At the conclusion of the hearing, the following points were presented for argument:

(1) Where does the term "commerce" end? Attorney Lester Asher, representing the International, and Charles P. Scully, representing the local union and counsel for the State Federation of Labor, contended that certainly it did not extend to retail operations. The representatives of the company, strangely enough, conceded that they did not know where "commerce" ended, but maintained that it included retail operations.

(2) The unions contended that since Local 421 had not qualified under the so-called "Labor-Management Relations Act," an order directing it to bargain would be in effect a certification of the union, which would be contrary to the intent and purposes of the law, and accordingly an order could not properly issue. Counsel for the unions pointed out that to rule otherwise in this respect would result in collusion between employers and unqualified unions, because the employers, under the guise of an unfair labor charge, would effectively obtain the certification of the union which otherwise could not qualify under the representation certification provisions of the Act.

In spite of this fact, the representatives of the General Counsel and of the company arbitrarily took the position that, although it might be a certification, nevertheless it was proper under the Act.

(3) The company contended that it had established that the operations were unique with respect to itself, as distinguished from retail stores, and that even though retail stores were not within the Act, this company was and the Act applied to all of its operations.

Union counsel countered that the company had not established any such unique conditions, and that the evidence showed, on the contrary, that the company operated on the same basis as any large

local retail meat market.

Upon the conclusion of the argument, 20 days are allowed both parties within which to submit briefs, and the Trial Examiner will thereupon issue findings with respect to which exceptions may be filed within 20 days after receipt, together with the request for oral arguments before the NLRB. Opportunity will then be requested to file additional briefs with the NLRB. Any party dissatisfied with the ruling of the Board may first resort to the Ninth Circuit Court of Appeals, and thereafter may appeal to the U. S. Supreme Court.

At the outset of the hearing, and during its entire course, the unions contended that the Act was unconstitutional in its entirety and with respect to all of the sections dealing with unfair labor practices and refusal to bargain by labor organizations. The Trial Examiner stated, however, that he would not rule upon the question of constitutionality and that he likewise believed that the Board should not rule on this point. He accordingly suggested that their position be reserved and that these points not be stressed until the parties desire to present them to the appropriate agency for judicial review.

The constitutional points raised by union counsel were violation of the First, Fifth, Tenth and Thirteenth Amendments to the Constitution. The unions in this case intend to follow this matter to a final conclusion and hope to obtain a favorable decision.

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ALL ROADS LEAD TO DI GIORGIO AS FOOD CARAVAN GETS UNDER WAY

(CFLNL)SAN FRANCISCO.--Before daylight on Friday, February 6, labor's great motor caravan will get under way. From the northern and southern parts of the state, cars and trucks loaded with food for the 1100 farm strikers at the Di Giorgio ranch will head for Bakersfield, from San Francisco and Sacramento in the north and San Diego and other southern points.

At Melody Bowl on Friday night, the Kern County Central Labor Council, the National Farm Labor Union, and Teamsters Union, Local 87,

will welcome H. L. Mitchell, President of the National Farm Labor Union, from Memphis, Tennessee, and the many prominent members of the Hollywood Screen Actors Guild who will help the strikers celebrate this boost from their AFL brothers in the labor movement.

In spite of all efforts to intimidate the strikers, their morale remains indomitable. They are determined to continue trudging the 19½-mile picket line until they win their moderate demands.

Immigration officers rounded up approximately 100 illegal Mexicans brought from El Paso, Texas, to break the strike. As news of the raid spread from field to field on the huge 20 thousand-acre Di Giorgio ranch, the Mexicans, who had entered the country illegally and were working behind the picket lines, tried to hide and a few escaped. The Di Giorgio chapter of the National Farm Labor Union passed a resolution thanking the Department of Immigration for removing the illegal Mexican strikebreakers from the ranch and urging the government to enforce the immigration laws so that wage standards will not be lowered in California by the use of illegally imported foreign labor.

In answering the many calls coming in to strike headquarters from Central Labor Councils all over the state asking what the strikers need, the Strike Committee pointed out that sugar, salt and shortening are especially useful, as well as canned milk for the children. Warm clothing for the pickets, and money for medical care of the strikers and their children are also very much needed.

The demonstration of solidarity with these strikers by the labor movement of California will undoubtedly be a great boost to their morale.

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// Have you registered yet?
// The time is growing short!
// Make sure you register before it is too late!
// See that your friends do likewise!