

U.S. INTERVENTION

Wilmington 10 trial called unfair

By Bob McMahon

RALEIGH, N.C.

THE U.S. JUSTICE DEPARTMENT, in a move a spokesman called "unprecedented," intervened Nov. 14 in the North Carolina civil rights trial of the Wilmington 10.

On that day lawyers for the Justice Department filed a friend of the court brief in U.S. District Court in Raleigh contending the Wilmington 10 trial "lacked fundamental fairness."

The move climaxed two years of investigation by the Civil Rights Division of the Justice Department into the controversial case, which has been the focus of considerable pressure domestically and an embarrassment to Carter's "human rights" criticisms of the Soviets.

James Fuller, a lawyer for the defendants, suggested that the federal move will have substantial impact. "An independent review by an independent agency whose job it is to protect justice reached the same conclusions we have—that basically the trial was not fair," Fuller said.

The Justice Department torpedoed a carefully-crafted strategy by North Carolina Gov. James Hunt to rid himself of the embarrassment the case has caused him.

Hunt came under sharp pressure from right and left over whether he should act on the case after North Carolina courts refused to overturn the 1972 firebombing convictions of the civil rights activists, despite the fact that the three key witnesses against them had recanted.

On Jan. 23, 1978, Hunt responded in a televised address by declining to admit any problems with their trial, but reducing the lengths of their sentences.

Initial reaction to Hunt's decision from Wilmington 10 supporters was sharply hostile, culminating by a march by 3000 on the state capitol in April. But throughout this year, as shortened sentences made members of the Ten eligible for parole, they were released promptly, and interest in the case began to decline.

Today, only Rev. Ben Chavis, who will be eligible for parole in January 1980, remains in prison.

It seemed that Hunt had found a way to make the Wilmington 10 quietly go away well before he runs for re-election in 1980. Now, with federal action making

the Wilmington 10 once more a highly visible and explosive issue, Hunt professes himself "perplexed" by the Justice Department move.

The core of the Justice Department brief is that the lawyers for the Wilmington 10 were unable effectively to cross-examine the key prosecution witness, Allen Hall, who may have lied under oath.

At the trial, Hall was questioned repeatedly about important inconsistencies between his testimony on the stand and a sworn statement he had given prosecutor Jay Stroud on Feb. 18, 1972.

"Hall admitted to at least 14 inconsistencies between his trial testimony and his earlier sworn statement," the Justice Department noted.

At the trial, Hall explained these inconsistencies by referring to an "amended statement"—corrections he had dictated to Stroud on Feb. 18.

When the defense asked for a copy of this statement, Stroud claimed all that existed were his own notes on trial strategy. Trial judge Robert Martin upheld Stroud's claim he need not give the defense these notes.

Unlike the lawyers for the Wilmington 10, the Justice Department was able to review this "amended statement." Their conclusion was that the contents "raise the question with regard to at least seven controversial areas of testimony, whether Hall was lying when he testified at the trial."

The federal brief also suggests that if Hall was lying, "and Stroud knew or should have known he was lying, then the prosecutor should have disclosed the statement so as to avoid participating in the knowing use of perjured testimony."

Strong described the federal action as "much ado about nothing. It's just being perverted and slanted. They were dealt with fairly and tried fairly, and that's all there is to it." He charged the federal intervention was a response to political pressure from "the Black Congressional Caucus."

The federal brief now goes before federal judge Franklin Dupree, who has before him two requests for a new trial filed by the Wilmington 10.

Dupree, a conservative Republican appointed by Richard Nixon, is expected to take several months to study the Justice Department's brief before deciding what—if any—action to take in response. ■



Carleton College students at one of the anti-apartheid meetings that sparked a successful South Africa divestment campaign.

Carleton College students win South Africa divestiture

By Paul Wellstone

STUDENT ACTIVISTS AT CARLETON College at Northfield, Minnesota, have won a year-long fight to pull the liberal arts school's investments out of banks and corporations that support the white racist regime in South Africa.

The Carleton board of trustees, threatened with civil disobedience and pressured by a petition signed by more than 1,200 of the 1,800 students and faculty at Carleton, agreed in October to divest their holdings in pro-South African firms on a case by case basis.

With one-third of its portfolio tied up in institutions and businesses friendly to the apartheid government, Carleton trustee Thomas Morgan called the decision "the most radical investment policy of any U.S. college that has anything to lose."

Carleton's Political Action Committee (CPAC) organized protest included a door-to-door campaign and marches in sub-zero weather as well as a sit-in at a trustee meeting.

Prime targets for divestment include Mobil Oil, International Business Machines, Manufacturers Hanover and Bankers Trust.

CPAC is still concerned, however, about the trustees' move to make what they call a "clean slate" of students to review the investment portfolio.

CPAC member Peter Dross said what the school officials call a clean slate is actually a means to get rid of activists—including himself—who were instrumental in the protest.

But despite the threat of back-pedaling, CPAC member Jeff Stovall said "most students were cynical."

"We were told that the activism of the '60s accomplished nothing. We always heard about the new conservatism," Stovall said. "We felt isolated, like there were not any radicals left today. Then we realized that we are the radicals today."

The fight for divestment at Carleton began with a small group of students—precipitated by the death of Steve Biko at the hands of South African police in September of 1977.

Carleton students had already heard a speech by black South African leader Khotso Seatlholo in May of that year after the rebellions in the officially segregated township of Soweto.

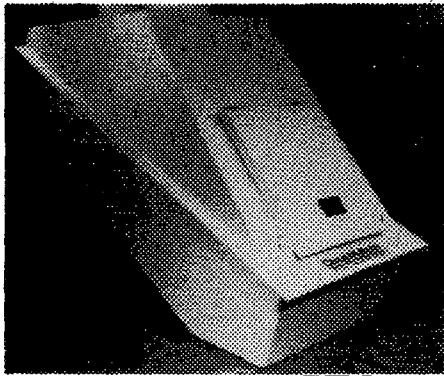
An eleventh-hour appeal during a lull in the on-going protest came from Donald Woods, exiled journalist and author of the biography *Biko*. ■

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PENSION FUNDS

Teamsters renege on Brewers' pact

By Alan Barnes

NEW YORK

THE EIGHT TRUSTEES OF THE New York Teamster Conference Pension and Retirement Fund were ordered to jail here late last month for their failure to comply with the terms of a 1973 merger with the Pension Fund of the New York Brewery Workers. The decision of the state Supreme Court marked a victory for the mostly-retired brewery workers in their five-year legal battle to sustain the viability of their pensions, following the mid-1970s collapse of the brewing industry in New York.

But despite the ruling and the vindication of the merger in every court and government agency involved in the dispute, the trustees of the \$150 million Teamster Fund have continued to renege on an agreement made to protect the pensions of the former CIO Brewers who affiliated with the Teamsters in the early 1950s. And, though attorneys for the Brewers, Philip Sipser and Susan Martin, (who have fought the case practically without remuneration, in marked contrast to the various well-heeled law firms employed by the Teamster Fund), are optimistic, unremitting Teamster resistance promises an additional two years of uncertainty for men whose livelihood is largely comprised of the pensions.

The case raises further questions about the Trustees of the Teamster Conference Fund, who are the focus of several investigations for criminal violations in administration of funds.

When the Teamster Trustees accepted a Brewery Workers' proposal to combine pension funds in 1973, the Brewery Fund held an estimated \$35 million to \$40 million in assets. From a high point of 26 breweries in the New York City area at the end of the 1950s, the industry had been reduced to two breweries owned by Rheingold and the F&M Schaeffer Co.

The Brewery Workers' Trustees saw the merger as a way to assure the pensions of some 5,000 active brewers and beer-truck drivers. Combined, they felt, the funds could be managed more effectively, and the enormous "umbrella" of the Teamster Fund would provide "insurance" in the event of an unexpected, though conceivable, "catastrophe" for the remainder of the industry.

For the Teamster Trustees, the merger meant an almost 25 percent increase in the assets under their control. While they also assumed the obligation of an additional \$5 to \$6 million annually in brewers' pension payments, continuing employer contributions of almost \$4 million were anticipated.

But shortly after the agreement was signed, "catastrophe" did occur; the Rheingold Co. announced its intention to shut down.

As Brewery Workers representatives frantically negotiated with management to maintain the brewery, at least until a buyer could be found, most of the 1,500 men whose jobs were threatened braved mid-winter weather and risked arrest to occupy the plant, in a successful effort to prevent the company from dumping millions of gallons of beer.

Under intense public pressure, Rheingold relented, and in a short time the Check Full O' Nuts Corporation was induced to pick up the Brooklyn brewery.

But the price of keeping the brewery open was high. Negotiations with the new owner resulted in an almost 40 percent reduction in workforce, accompanied by concessions on job status and work loads, and drastic reductions in medical benefits and pension fund contributions.

Seeing an opportunity, Schaeffer, too, made similar demands to secure its operation, and received similar concessions.

Despite a string of court victories, the Brewers have been unable to get their pensions.

At this point, in early 1974, the Teamster Fund Trustees repudiated the merger-agreement, citing the near-closings as signs that the industry was "doomed." They refused to accept the assets of the Brewery Workers' Fund or to perform the other obligations of the agreement, including the last and crucial step in such and action, an application for IRS approval.

The Brewers then sued the Teamster Fund for compliance, and won the initial suit as well as a host of Teamster appeals, filed over the course of two years.

But the Teamsters continued to resist, so, in March, 1976, the Brewery Fund Trustees applied with the IRS for approval on their own. There, too, the merger was upheld.

Meanwhile, the Teamster Fund sought intervention by the PBGC, (the Pension Benefit Guaranty Corporation), a non-profit, government insurance corporation created by the Congressional pension-reform law known as ERISA, (the Employee Retirement Income Security Act of 1974). The PBGC is supposed to assure the uninterrupted payment of basic pension payments to participants in pension plans that fail. The Teamsters argued that reduced employer contributions to the Brewery Workers' Fund caused a "partial termination" of the plan; thus, the PBGC, and not the Teamsters, should assume responsibility for the brewers' pensions.

But the PBGC would provide significantly smaller pension payments, so the Brewery Fund Trustees opposed the Teamster request.

The PBGC, not favorably disposed to assuming responsibility of one of the wealthiest pension fund amalgamations in the country ruled that there were no grounds to intervene. Victorious, the Trustees of the Brewery Workers' Fund resigned their positions at the end of 1976 and assigned their assets to the Teamster Fund. The Teamster Trustees again refused to accept them. Instead, they organized a new round of lawsuits, directed at the PBGC, the Brewers' Fund, and one complaint, ostensibly from Teamster members, aimed at enjoining the merger as harmful to Teamster pensioners. The suits were dismissed.

As the Teamster Trustees still refused to cooperate, the Brewers returned to court for an additional enforcement order to comply. The Teamsters appealed the order and every other decision and lost every appeal. Their continued non-compliance resulted in a \$250 fine for contempt and the threat of imprisonment if they continued to resist.

More delay.

Finally, in November 1977, the Teamster Fund Trustees accepted control of the Brewery Fund's assets. However, they failed to combine the funds and did not fulfill several requirements of the merger, including proper notification of pensioned brewers of their options under the merger-agreement. Furthermore, they asked that the IRS rescind its approval of the merger.

The Brewers' attorneys had that request enjoined while they secured a number of contempt citations, which lead to the recent order for the Teamster Trustees' arrest. Following that decision, the IRS notified the attorneys that its approval of the merger would stand. But both decisions again permitted the Teamsters a



"reasonable" amount of time to comply, leaving the question of actual imprisonment open and allowing the possibility of further Teamster delays of up to two years.

Teamster Fund officials have already expressed their continued opposition to the merger.

In the meantime, from 1973 until 1976, the number of brewery workers dropped by about 2,000, and in 1976 employer contributions and brewery employment virtually ceased when both the remaining breweries closed down for good.

The result, at least according to Team-

ster figures, (they now possess all the Brewery Fund records), has been an almost complete depletion of the \$35 million fund.

The Teamsters cited the drop in funds to support their request that the IRS rescind its approval of the merger as harmful to the health of their own fund.

And that is where matters now stand. The Brewers are clearly entitled to their pensions, but the Teamster Pension fund administrators seem able to delay payments indefinitely.

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Guns instead of butter

Continued from page 3.

several proposals—such as one offered by a Boston Study Group of physical and political scientists in the October *Scientific American*—that demonstrate precisely how the U.S. military budget could be cut by at least 40 percent or \$50 billion a year and still provide at least as much, perhaps more, security than the current budget. All such proposals, however, rest on revision of some basic assumptions of American foreign policy and related military shibboleths, such as the doctrine that the U.S. must maintain "essential equivalence" of weapons with the Soviet Union. "Cutting the defense budget is not a matter of cutting fat," Banning Garrett, military and strategic affairs editor of *Internews*, says, "but of foreign policy goals and the military goals that follow."

Perhaps the most basic rationale for spending more money on the military is "to create political perceptions abroad about American will power," a military analyst explains. "It's to give signals to the Russians, show resolve and all that sort of thing," Earl Ravenal, an Institute for Policy Studies fellow and former Defense Department analyst, says. "It's crazy, but it's a real motive."

In the same way, Ravenal suggests, the increased spending helps to "get NATO allies in line." Other analysts agree that building up NATO is important to the U.S. less as a defense against Soviet military attack and more as a defense against increasing leftist political influence. Soviet scares and NATO strengthening increases the power of conservative political parties in Europe and dependence of western Europe on the U.S.

There is a preoccupation with the threat of "Finlandization"—the imagined loss of political independence of European countries if Soviet influence grows. Now that the U.S. is proposing that NATO's sphere of influence extend to the Persian Gulf and parts of Africa, the increased expenditures are intended to show "resolve" in these areas as well.

Domestically, the increased spending

is intended to appease the military and the hawks in Congress so that they will not destroy any new Strategic Arms Limitation agreement. But critics of the military expenditures argue that Carter is conceding more in order to get SALT 2 than the treaty itself is likely to bring in halting the arms race.

Unfortunately, foreign policy setbacks in recent years have created a more powerful constituency in support of the military. Liberals, always divided on the merits of a bigger military, are even less vocal as critics of defense budgets. Ravenal hopes that Congress may engage in "serious debate this year, because the defense budget will be seen as a trade-off with domestic programs, inflation and taxes. It's a lean time. We can't have everything—guns, butter, fiscal integrity, reasonable taxes." But for intelligent debate to take place, longtime assumptions about foreign policy—one of the least debated subjects in U.S. politics—will have to be challenged.

So far there is little sign of that debate emerging. If military critics, such as the Coalition for a New Foreign and Military Policy, and the wide range of groups and institutions to be gored by the domestic budget cuts—unions, poor people, city governments, schools, and many others—could unite behind a common policy, then there would be a chance for a fundamental confrontation on the direction of the U.S. at home and abroad in the coming years. Preliminary skirmishes may take place at the Democrats' mid-term convention in early December and in jockeying for positions on Senate and House budget committees, both of which have lost some of their most progressive members.

However, most politicians seem to read the voters' message as "cut spending" and "keep America tough." UAW legislative director Howard Paster says, "I assume [the administration] thinks their budget is a combination of responsible economics and good politics. I think it's neither." It will take a lot of work to convince this Congress of that.