

Vanderbilt Law Review

Volume 43
Issue 3 *Issue 3 - Symposium: Reforming RICO:
If, Why, and How*

Article 1

4-1990

Reforming RICO: If, Why, and How

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Recommended Citation

Rene Augustine, *Reforming RICO: If, Why, and How*, 43 *Vanderbilt Law Review* 621 (1990)
Available at: <https://scholarship.law.vanderbilt.edu/vlr/vol43/iss3/1>

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SYMPOSIUM

Reforming RICO: If, Why, and How?

1990 marks the twentieth anniversary of the passage of RICO, the Racketeer Influenced and Corrupt Organizations Act. Congress created the statute in an effort to combat the infiltration of organized crime into legitimate business enterprises. In recent years, the RICO reform controversy has attracted national attention, spurring scholarly debates and reform measures in Congress.

With its increased use both by prosecutors and private plaintiffs, the RICO statute has prompted a host of criticisms. For instance, some critics argue that Congress intended RICO to battle mafia crimes of the Al Capone genre, but that it has been applied in situations far beyond those Congress originally envisioned. Some seek RICO reform because of concerns that the statute may threaten civil liberties and chill free speech. Unhappiness with RICO has led to some uncommon alliances between diverse groups who wish to reform or repeal the statute. In fact, RICO itself has been applied to a wide variety of groups, ranging from antichoice protestors to Wall Street accounting firms.

Meanwhile, its defenders assert that RICO serves as a powerful and effective tool to deal with societal wrongs, and that so-called reform measures are based on misinformation and misconceptions. These defenders acknowledge that RICO might need to be fine-tuned, but fiercely deny that the statute's powerful reach should be restricted.

In an effort to stimulate an open exchange of ideas on RICO re-

form, the *Vanderbilt Law Review* hosted a Symposium on November 9 and 10, 1989, the result of which is this issue. In this issue, we attempt to offer a myriad of perspectives from individuals in the forefront of the debate. The Symposium issue provides views from the original drafter of RICO, law professors, a private defense attorney, a prosecutor with the Department of Justice, a former federal judge, an attorney with the American Civil Liberties Union, and a member of Congress.

Justice Oliver Wendell Holmes once stated:

[When people] have realized that time has upset many fighting faiths, they may come to believe even more than they helieve the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out.¹

It is in the spirit of the marketplace of ideas that this Symposium seeks to provide varying viewpoints on RICO reform, which in turn will help find the optimal future for RICO, at a time when RICO is clearly at a turning point.

René Augustine
Symposium Editor*

1. *Abrams v. United States*, 250 U.S. 616, 630 (1919) (Holmes, J., dissenting).

* The *Vanderbilt Law Review* would like to thank the following individuals for making this Symposium possible: The Honorable Judge Griffin Bell, for suggesting the Symposium topic; Mr. John Arterberry; Dean John J. Costonis; Professor Robert N. Covington; Professor Barry E. Friedman; Professor Donald J. Hall; Professor Donald C. Langevoort; Ms. Pamela Malone; Professor David F. Partlett; Professor Robert K. Rasmussen; Professor Larry D. Soderquist; and Ms. Kelly Sharber.