

The Supreme Court and the Workers

By Jay Lovestone

ONCE more the Supreme Court has spoken. And once more it has spoken against the workers. By a vote of 5-3 the Holy Synod of Capitalist Bishops has nullified the Minimum-Wage Law for women and minor girls in the District of Columbia.

Through this decision starvation wages will be forced upon thousands of women in the nation's Capitol. The minimum wage laws of California, Kansas, New York, Oregon, Wisconsin, and Washington are now in danger. Over 1,500,000 women worker are confronted with a wholesale wage slash. But, great a loss as this might mean to the workers, there is a still greater danger lurking in this decision. Associate Justice Sutherland, the notorious corporation lawyer recently appointed by Harding to the Supreme Court, ruled that the only proper basis for wage payments is "a fair equivalent for the services rendered" and not "the necessities of employees."

What this Decision Means

Stripped of its legal sophistry and translated into the every day language of the workers this command of the Supreme Robed Oligarchs means only this: that the full judicial power of the Government will be put at the disposal of any employer bent upon forcing his workers to accept a wage less than what is necessary for even a minimum subsistence! This decision legalizes the starvation wage not only for women workers and minor girls but for all workers. It is indicative of the frankness and brazen effrontery with which the employing-class reaction is proceeding to crush the workers.

As usual the Majority of the Court dabbled in the vaguest abstractions. The "ethical right" of a worker to a living wage is conceded. But here Sutherland stopped to draw his breath for fear of getting into dangerous realms. The principle of a living wage might be all right but the practice of it is awful! Said the Associate Justice: "The fallacy of the proposed method of obtaining it is that it assumes that every employer is bound to furnish it." The Majority go on to say: "In principle there can be no difference between the case of selling labor and the case of selling goods." Thus is the last spadeful of earth thrown on the still-born Magna Charta of Gompers—the Clayton Act.

Not only does the Supreme Court reaffirm the truth daily suffered by the workers in the shops, mills, and mines—that under capitalism human labor power is a commodity sold and bartered—but it goes much further than that. The Court

rips off its last shred of impartiality, the last thread of its veil of hypocrisy. The country is warned against ignoring "the necessities of the employer by compelling him to pay not less than a certain sum, not only whether the employee is capable to earn it but irrespective of the ability of his business to sustain the burden." Here we have the pith of the problem in every strike, in every labor struggle. Industry is run today on a capitalist basis. This simply means that the workers must produce sufficient dividends to cover every period, deflation and inflation, employment and unemployment, prosperity and depression. Regardless of the name given by the Capitalist experts to the conditions of exploitation forced upon the workers, the workingmen must be content with receiving little enough to guarantee a continuous flow of dividends. When they are employed they must turn out enough to pay all-year-round dividends to the bosses and get barely enough to maintain themselves near the minimum level of subsistence. When they are unemployed they must starve.

It is this condition that the Government maintains for the employing class by placing at its disposal the army, the navy, the financial resources, and the judiciary powers. And it is this condition of capitalist slavery that the Supreme Court aims to perpetuate by its decision against the working women and minor working girls of the District of Columbia.

Supreme Court Leads the Attack

This decision is merely the logical development of a series of anti-labor decisions handed down by the Supreme Court in recent years. The history of the Supreme Court is a history replete with crimes committed against the workingmen and unfailing service to the employing class. The Supreme Court is the fountain-head of American reaction.

In January 1921, in the case of the Duplex Printing Press Company vs Deering et al the Supreme Court dealt a mortal blow to the workers. The Court ruled that the International Association of Machinists was acting against the law when it struck back at the company through the power of its organization in the country. The workers were told that "to instigate a sympathetic strike in aid of a secondary boycott cannot be deemed peaceful and lawful persuasion." The solidarity of the workers was here defined as a conspiracy. Walter Gordon Merritt, the notorious "Open Shop" advocate, thus summed up the effect of this law on the workers: "Class war is not a

lawful occupation. Class solidarity is not an economic relationship which justifies concerted action by all members of that class to assist one of their fellows in fighting a member of another class." To the working class of America this decision meant: "Workers of America, divide! Workers, don't stick together!"

In the case of the American Steel Foundries vs. the Tri-City Central Trades Council the Supreme Court held that "The name 'picket' indicates a militant purpose, inconsistent with peaceable persuasion." The Court went on to say: "We think that the strikers and their sympathizers engaged in the economic struggle should be limited to one representative for each point of ingress or egress in the plant or place of business and that all others be enjoined from congregating or loitering at the plant or in the neighboring streets by which access is had to the plant. . . ." This decision took the heart out of picketing and brought into bold relief the role of the Supreme Court as a strikebreaking agency in the hands of the employers. There is not a single court decision limiting the number of strikebreakers or gunmen a boss may hire. There is not a single court ruling prohibiting strikebreakers and gunmen from insulting, intimidating, and shooting down strikers. Yet, the workers fighting against starvation wages are prevented from even "accosting" armed strikebreakers robbing them of their livelihood. The Second Commandment of the Supreme Court was: "Workers, don't fight together!"

This decision was quickly followed on December 19, 1921, by a 5-4 ruling of the Supreme Court in the case of *Truax vs. Corrigan* declaring unconstitutional the Arizona State law limiting the use of injunctions. Striking restaurant workers carried posters reading: "All ye who enter here leave all hope behind" and warning patrons to beware of "graveyard stews" served inside. Our highest court saw in this effective fight against the employer a menace to his property. The workers were therefore committing a crime. Obviously, violence or no violence, effective resistance to capitalist exploitation is a crime in the eyes of the Supreme Court. Here we had the highest capitalist tribunal cry out to the 48 State Legislatures: "Thou shalt not deny protection to business!" The Third Commandment of the Supreme Court was: "Workers, don't fight well!"

Attacking the Women and Children

And in the *Coronado* Decision, the Supreme Court held on June 5, 1922, that a union can be sued though it is unincorporated. It ruled that a union can be held fully responsible for injury to the property of an employer arising from a

strike. Coupled with the *Hinchman* Decision that a union cannot wage a campaign of organization amongst workers who have been forced to sign an individual contract this is a death blow to unionism.

On May 15, 1922, the Supreme Court declared unconstitutional, for a second time, a Child Labor Law enacted by Congress. The Court ruled that it was a violation of State rights for Congress to enact legislation interfering with such inalienable rights as the ruthless exploitation of child labor. Here we have the hollow mockery of capitalist justice exposed at its ugliest. How mysteriously their holy, inalienable State rights vanish when troops are rushed into the various States to break strikes! The rights of the States are supreme when the law of profits demands it! The rights of the States disappear when the interests of the workers are in question!

It is on these infamous precedents that the recent Minimum Wage Decision is founded. Each one of these cases is a link in the chain forged by the Supreme Court to bind the workers to the chariot of capitalist exploitation.

The Supreme Court, as the heart of the employing class machinery of oppression — the Government—is the symbol of the capitalist lust for profits at its worst. Men, women, children—all must be sacrificed on the altar of dividends to the God Mammon—the God of the employing class.

The last ukase of the Supreme Court formally legalizing starvation wages, marks the culmination of a series of strikebreaking decisions. It marks the height of capitalist brutality against the workers. Here we have the capitalist dictatorship riding rough shod over the last vestige of the most elementary rights of the workers.

The Workers Must Answer

Will the workers accept this challenge flung at them by their oppressors? They must if they do not want to be driven headlong into abysmal degradation. The workers must answer their employers in the only language their employers understand. The workers must speak to their exploiters in the language of class power—industrial and political. To drive back this furious attack of the capitalists, the workers must turn their impotent, crippled craft unions into fighting industrial unions. The workers must organize to use their political power against the bosses, and to supplant the present Government of the employers with a Government of the workers and working farmers. Thus only can the workers marshal their forces for a successful fight against their oppressors and put an end to their intolerable conditions of life and work.