High Court Refuses to 'Trespass' in Rail Union Case

By BANNING E. WHITTINGTON

The Supreme Court ruled yesterday that Congress intended the jurisdictional disputes of railroad unions to be settled without recourse to the Federal courts as a final arbiter.

Concurrently, it upheld the convictions of 18 Minnesota members of the Socialist Workers' Party who were found guilty of plotting the overthrow of the Government.

Dissents in Two Cases

The court in effect held in two railroad cases that the National Railway Labor Act fails to provide for court jurisdiction in intra-union controversies. Justices Owen J. Roberts and Stanley Reed dissented from both decisions. Justice Robert H. Jackson dissented in one case.

The first opinion involved a union appeal from action by the national mediation board ordering an election to determine union representation between rival organizations in one craft.

Justice William O. Douglas wrote the majority opinion in which the court denied, 4 to 3, its authority to review board decisions. He said court review is not necessary to protect rights created by statute law.

Courts "Should Not Rush In"

In the second case, involving two railroads and two unions, the court decided it lacked power to rule on labor contracts agreed on by those parties. Douglas said the mediation act did not embrace judicial remedies.

"The command of the act should be explicit and the purpose to afford a judicial remedy plain before an obligation enforcible in the courts should be implied," he said.

He added that the courts should not "rush in where Congress has not chosen to tread."

In the Socialist case, the court denied the 18 members' joint appeal based on the contention that they had been deprived of free speech. They were convicted in Minnesota District Court both for advocating overthrow of the Government and violating the Alien Registration Law.

In other decisions or orders, the court:

1. Ruled seven to one that the sale of oil and gas leases for investment purposes constitutes sale of a "security" and hence is within the Federal Securities Law.

2. Reversed the action of the New York Court of Appeals enjoining a union from picketing two cafeterias where no labor dispute allegedly existed.

To Hear Liquor Case

3. Agreed to hear oral argument in a case involving legality of liquor shipments to a military reservation in Oklahoma—a dry State.

Ruled six to three in the case of Frank Roberts, Huntsville, Ala., that Federal courts lack legal right to impose a new sentence on a person convicted of a Federal offense if probation privileges are violated.

5. Ruled that Joseph Dotterweich, general manager of a Buffalo pharmaceutical firm, was responsible for misbranding of drug products by the company in violation of the Federal Food and Drug Act.

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Mr. Rosen
Mr. Tracy
Mr. Acers
Mr. Carson
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Mr. Nease
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High Court Rule Wrangle Looms In 2 Big Cases

By BANNING E. WHITTINGTON

A fight paralleling in intensity President Roosevelt's historic Supreme Court reorganization campaign in 1937 may develop about the tribunal soon, but this time the Chief Executive will be an onlooker, although he ultimately may take an active hand.

At issue are three moves to change the court's legal quorum without changing the numerical size of the bench. This is proposed so that two cases of great import, now hanging fire, could be reopened.

Five Constitute Quorum

They are the Government's anti-trust suit against the Aluminum Company of America, known as Alcoa, and the Securities and Exchange Commission's directive to the North American Company, giant utility holding syndicate, to divest itself of $190,000,000 of assets.

Six justices have constituted a quorum since the days when the tribunal numbered 11. In the Alcoa case, four of the present nine justices—Chief Justice Harlan F. Stone and Justices Stanley Reed, Frank Murphy and Robert H. Jackson—have disqualified themselves because of prior connection with the Department of Justice.

A quartet of justices whose names have never been made public, also have held themselves ineligible in the North American case. With both actions thus tied up the court has transferred them to a special docket—pending developments.

Prospective Ways Out

At present there are two prospective ways out. Congress can pass a law changing the quorum rule, or the cases can lie in abeyance until the court's membership is reshuffled.

Three remedies thus far proposed have come in for violent criticism for fear that if the legal quorum were reduced the court would be "unbalanced" and consequently become unrepresentative of the true court majority.

One is a bill by Representative Hatton W. Sumners (D.), of Texas, chairman of the House Judiciary Committee, under which five justices would constitute a bench—or quorum—permitting decisions on a three-to-two divided basis.

The American Bar Association's reaction was instant. It called the bill "ad hoc in character." This means that the cases tied up might be cleared but that there would be established a dangerous policy whereby a three-judge majority could adjudicate questions of sweeping, national importance.

Other Measures Proposed

A second plan—by Representative Zebulon Weaver (D.), of North Carolina, would automatically remand the cases to the Circuit Courts of Appeals where they originated.

The third alternative—suggested by Representative Estes Kefauver (D.), of Tennessee—would authorize retired justices to fill a quorum.

Should any of the plans be pushed, a long, bitter fight is certain.

INDEXED [illegible] RECORDED
87 JAN 5 1944

JAN 3 1944

34 JAN 7 1944

WASHINGTON TIMES-HERALD
Page 2

HIGH COURT BACKS SECT DRAFT CHARGE

Upholds Conviction of Minister of Jehovah's Witnesses Who Evaded Induction

WASHINGTON, Jan. 3 (AP)—The Supreme Court ruled today that a draft registrant who objects to the classification given him by a draft board must report for duty before he can test in the courts the validity of the board's action.

The 8-to-1 opinion by Justice Hugo L. Black, with Justice Frank Murphy dissenting, said it was "well understood" that "dire consequences might flow from apathy and delay" and that the Selective Service Act was passed "to mobilize national manpower with the speed which that necessity and understanding required."

Justice Black explained that an order to report for induction was not "the equivalent of acceptance for service" because "the selectee may still be rejected at the induction center and the conscientious objector who is opposed to noncombatant duty may be rejected at the civilian public service camp."

"Thus," Justice Black asserted, "a board order to report is no more than a necessary indeterminate step in a united and continuous process designed to raise an army speedily and efficiently."

The decision specifically involved Nick Falbo of West Newton, Pa., a member of Jehovah's Witnesses. Mr. Falbo contended that he should have been classified as a minister completely exempt from military training and service.

Instead he was classified as a conscientious objector and was ordered to report for work under civilian direction at Big Flats, N. Y. He failed to report and was sentenced to five years' imprisonment by the Federal court at Pittsburgh.

The Government argued before the court that Mr. Falbo's objections to his classification could be tested by applying for a writ of habeas corpus after reporting for duty. But Mr. Falbo contended that he had a right to test the validity of the board's action in the criminal proceedings brought against him for failure to report.

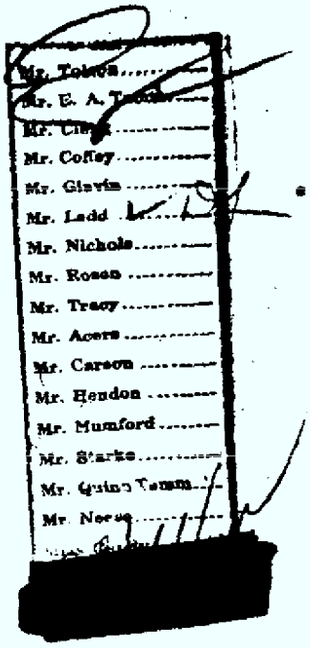
Justice Black's majority opinion, which confirms the district court ruling, said that "Congress was not required to provide for judicial intervention before final acceptance of an individual for national service."

In his dissent, Justice Murphy said that there was no "express or implied barrier" in the Selective Service Act to the granting of "a full judicial review of induction orders in criminal proceedings."

The Supreme Court refused to review the conviction of Sidney Zernit of New York on a charge of failing to report for induction into the Army after his claim for classification as a conscientious objector had been denied.

Mr. Zernit, sentenced to three years' imprisonment by the Federal court at New York, contended that he could not submit to induction without violating his conscience.

The Justice Department asserted that the proper procedure was to appear for induction and then seek a writ of habeas corpus to test the legality of the board's 1A classification.



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87 JAN 10 1944

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Seconded by Frankfurter

Roberts Says Court Flipflops Confusing to Lower Tribunals

By Mary Spargo

Vigirous criticism of the present "tendency" of the Supreme Court to disregard precedent to such an extent as "to shake confidence in the consistency of decision and leave the courts below on an uncharted sea of doubt and difficulty" was disclosed yesterday in an opinion written by Justice Owen J. Roberts.

Justice Felix Frankfurter joined in Roberts' opinion, which cited the court's flipflops on various decisions concerning the Jehovah Witness sect.

The dissenting opinion referred to a "modern instance" of members of the court making a public announcement of a change of views, with a citation referring to an opinion in which Justices Black, Murphy and Douglas revealed that they had changed their minds on the Jehovah Witness flag salute case.

Early last month Justice Black wrote a concurring opinion solely devoted to taking issue with the reasons given by Frankfurter for dissenting from a majority opinion. Black was joined by Murphy. The split attracted more than usual attention becaused all three Justices —Black, Murphy and Frankfuter— were appointed to the bench by President Roosevelt and were regarded as a 'liberal team" which would work together.

The strongly worded dissent by Justice Roberts criticizing the lack of consistency in the court was handed down Monday in an admiralty case (Mahnich v. The Southern Steamship Co.). Justice Roberts charged that the court's majority opinion nullified an earlier decision of the Supreme Court "which has stood unquestioned for 16 years."

JUSTICE ROBERTS

"The evil resulting from overruling earlier considered decisions must be evident," Justice Roberts opinion said.

"In the present case, the court below naturally felt bound to follow and apply the law as clearly announced by this court. If litigants and lower Federal courts are not to do so, the law becomes not a chart to govern conduct but a game of chance; instead of settling rights and liabilities it unsettles them. Counsel and parties will bring and prosecute actions in the teeth of the decisions that such actions are not maintainable on the not improbable chance that the asserted rule will be thrown overboard. Defendants will not know whether to litigate or to settle, for they will have no assurance that a declared rule will be followed. But the more deplorable consequence will inevitably be that the administration of justice will fall into disrepute. Respect for tribunals must fall when the bar and the public come to understand that nothing has been said in prior adjudication has force in a current controversy.

Growth Allowed For

"Of course, the law may grow to meet changing conditions. I do not advocate slavish adherence to authority where new conditions require new rules of conduct. But this is not such a case. The tendency to disregard precedents in the decision of cases like the present has become so strong in this court of late as, in my view, to shake confidence in the consistency of decision and leave the courts below on an uncharted sea of doubt and difficulty without any confidence that what was said yesterday will be good tomorrow, unless indeed a modern instance grows into a custom of members of this court to make public announcement of a change of views and to indicate that they will change their votes on the same question when another case comes before the court. This might, to some extent, obviate the predicament in which the lower courts, the bar and the public find themselves."

62-27555-4
NOT RECORDED
87 FEB 9 1944

5 3 FEB 9 1944

FEB 2 1944

WASHINGTON POST
Page 1

Roberts' reference to "changing conditions; was interpreted as a possible reference to his own change of decision in regard to minimum wage laws for women. In 1936 Roberts voted with the majority to hold unconstitutional a New York law fixing minimum wages for women. Less than a year later the court sustained a similar Washington State law by another 5-to-4 decision, with Roberts switching his vote to make the majority. This decision came in the midst of the bitter Senate controversy over President Roosevelt's unsuccessful plan to reorganize the Supreme Court by adding six justices, a proposal attacked as a "court packing" plan. During the Supreme Court fight, Roberts was frequently referred to as the court's "swing man."

Cites June 1940 Decision

The citations given by Roberts in connection with the modern right-about face tendency of members of the court go back to June, 1940, when the majority, in a decision written by Frankfurter on a Jehovah Witness case, held that a public school requirement of a salute to the flag was constitutional. Chief Justice Harlan F. Stone was then the lone dissenter.

In June, 1942 the court split, 5 to 4, in upholding the right of three cities to impose license fees on members of the Jehovah's Witness sect distributing religious literature. This time Justices Murphy, Black and Douglas joined with Stone in dissenting, and the first three named added:

"Since we joined in the opinion in the Cebitis (flag salute) case, we think this is an appropriate occasion to state that we now believe it was wrongly decided."

In October, 1942, the Fourth Circuit Court of Appeals cited the fact that four members of the U. S. Supreme Court believed the flag salute decision incorrect in upholding the Jehovah Witness fight against the flag salute in West Virginia schools.

May 4, 1943, the Supreme Court reversed its previous stand on the constitutionality of municipal license taxes on the sale of religious literature. This time the court upheld the Jehovah Witness sect in a fight against such municipal ordinancees in a 5-to-4 decision, with the scales tipped by the addition of Justice Rutledge, who replaced former Justice Byrnes, now War Mobilization director. This time Roberts, Frankfurter, Jackson and Reed were in the minority.

June 15, 1943, the Supreme Court overruled its 1940 decision on the flag salute, with Frankfurter and Roberts consistently dissenting and joined in their opinion by Justice Reed.

Freedom Of Worship

The curious and confusing convolutions of Supreme Court in interpreting the First Amendment are doubtless due to the complexity of the problem raised by the sectaries called Jehovah's Witnesses who for several years past have been providing the court with a series of troublesome test cases. The creed of the Witnesses is apocalyptic; they believe that Armageddon is close at hand when the righteous (meaning themselves) shall triumph and their enemies be laid low. Their faith and their methods are fanatical; they regard other religions not merely as heresies, but as satanical inspirations; and consequently have little regard for the religious sensibilities of others. They consider the Government itself godless and rejoice in the thought of its imminent destruction, yet rarely hesitate to invoke its protection. They appear to invite rather than to avoid repression or persecution, and there is some reason to believe that they welcome the publicity which their frequent conflicts with local and State authorities have brought them.

The dilemma of the court lies in this: in upholding local ordinances or State laws under which the Witnesses have been prosecuted, precedents may be established which will ultimately react against other religions. The principle, for example, that school children belonging to the sect may be compelled, even against conscience, to offer homage to the flag, could easily be extended to compelling oaths from persons who have religious scruples against swearing. The principle of regulating religious activity by license or taxation could, if it became expedient, be directed against almost every religious body. The principle that a secular court may prescribe which actions do or do not constitute worship, is one that scarcely any religious body could accept. Such principles, in fact, if once established in law, would modify the constitutional principle of freedom to one of mere toleration.

It may be granted, of course, that there is a theoretic limit even to freedom of worship. The limit would seem to be precisely at the point where the freedom of one religion collides violently and injuriously with established moralities. No one would say seriously, for example, that ritual cannibalism as practiced by the Aztecs or infant immolation as practiced by the ancient votaries of Moloch, or polygamy as practiced in certain patriarchical societies are entitled to protection under the law. But in the absence of overt injuries to persons or to traditional moralities—and, as far as we know no one has alleged either against Jehovah's Witnesses—we should like to see these cases decided on the side of freedom. For if this one vital freedom is narrowly restricted, all other constitutional rights will be in jeopardy.

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INDEXED 62-27555-A 173 FEB 9 1944

This is a clipping from page 6 of the Washington Post for

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Feb 4

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Supreme Court Controversy Flares Again

By The Associated Press

Justice Felix Frankfurter added fresh fuel yesterday to the controversy among Supreme Court justices over the interpretation of constitutional law, by asserting that his colleagues were resorting "gratuitously" to a "wholly novel doctrine of constitutional law."

These were virtually the same words Justices Black and Murphy used a month ago in criticizing Frankfurter's views on utility rate making.

The latest tiff developed over the court's decision that a Federal bankruptcy court, rather than State courts, has exclusive power to fix fees for attorneys who represented in the State courts a corporation undergoing reorganization under the Federal Bankruptcy Act.

Frankfurter agreed with all the other justices that in this particular case the bankruptcy court should determine the fees but vehemently expressed opposition, in a concurring opinion, to the grounds which the Supreme Court cited for its finding.

The case involved the reorganization of the Reynolds Investing Co., Inc., in the Federal District Court of New Jersey. Three attorneys acting for the debtor, and later for trustees for the company, filed suit in the New York courts to collect certain claims. Before judgments were returned, the attorneys' services were discontinued. Thereupon, under New York State judiciary law and in conformity with an arrangement in the reorganization proceeding, the three sued in the State courts to obtain fees for their services, and were awarded $[illegible],000.

Justice Douglas' opinion declared that under chapter 10 of the Bankruptcy Act, Congress had conferred "paramount and exclusive" jurisdiction on the bankruptcy court.

He Takes Exception

"Where the reorganization supersedes a prior proceeding in either the Federal or State court, the bankruptcy court is the one which is authorized to allow the 'reasonable costs and expenses' incurred in the prior proceeding," the opinion said.

But Frankfurter asserted that from the beginning Congress had allowed Federally created rights to be enforced in State courts "not only by the general implications of our legal system but also by explicit authorization."

He declared that the Constitution does not give the Bankruptcy Act supremacy over the right of States to determine what shall be litigated in their courts, and under what conditions.

"And certainly," he added, "such a wholly novel doctrine of constitutional law should not be resorted to gratuitously when the case before us can be disposed of on the conclusive ground that the litigation conducted in the New York courts was conducted under an arrangement consonant with New York law . . ."

162-2755-A
RECORDED
87 FEB 12 1944

FEB 8 1944

WASHINGTON POST
Page 6

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Court Discord Bared Again In Split on Jehovah Case

Discord on the Supreme Court bench was again revealed yesterday with a minority of three, headed by Justice Frankfurter, charging that a majority opinion had "startling implications," leading to the establishment of the press "in a class apart, untouchable by taxation."

This interpretation was ridiculed by Justice Murphy of the majority who warned, in his turn, that the taxing power "in the hands of unscrupulous or bigoted men could be used to suppress freedoms and destroy religion."

Divided Six to Three

The court was divided, six to three, in reversing the conviction of Lester Follett, of McCormick, S. C., a Jehovah's Witness, for selling religious literature without a book agent's license.

The court has previously ruled in similar cases that peddlers of religious tracts could not be taxed for a license. The only difference in Follett's case was that he was a resident of the town where the sale stook place, and the principals in other cases had been itinerant salesmen. The majority held the residence of the salesman made no difference—the tax was unconstitutional.

Although the question involved thus was a narrow one, six of the nine justices saw fit to air their views separately on the meaning of the First Amendment to the Constitution, which specifies:

"Congress shall make no law . . . prohibiting the free exercise (of religion); or abridging the freedom of speech, or of the press."

Wanted Conviction Upheld

Justice Frankfurter, with Justices Roberts and Jackson concurring, asserted the conviction of Follett should have been upheld.

"Here, a citizen of the community, earning his living by a religious activity, claims immunity from contributing to the cost of Government under which he lives," said their opinion. "Unless the phrase 'free exercist,' embodied in the First Amendment, means that government must render service free to those who earn their living in a religious calling, no reason is apparent why he should not contribute his share of the community's common burden of expense.

"In effect, the decision . . . requires that the exercise of religion be subsidized . . . Trinity Church, owning great property in New York city, devotes the income to religious ends. Must it, therefore, be exempt from paying its share of the cost of government's protection of its property?

"The decision now rendered must mean that the guarantee of freedom of the press creates an immunity equal to that here upheld as to teaching or preaching religious doctrine . . . It is unthinkable that those who publish and distribute for profit newspapers and periodicals should suggest that they are in a class apart, untouchable by taxation . . . The implications of the present decision are startling."

Justice Murphy, in a separate opinion concurring with the majority, ridiculed this reasoning.

"It is claimed that the effect of our decision is to subsidize religion," he wrote. "But this is merely a harsh way of saying that to prohibit the taxation of religious activities is to give substance to the constitutional right of religious freedom."

Income Not Taxed

Concerning the references to Trinity Church and use of the decision in reference to freedom of speech and press, Murphy declared:

"It is wise to remember that the taxing and licensing power is a dangerous and potent weapon which, in the hands of unscrupulous or bigoted men, could be used to suppress freedoms and destroy religion unless it is kept within appropriate bounds."

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62-27555-A
INDEXED
87 MAR 31 1944

APR 4 1944

WASHINGTON TIMES-HERALD
MORNING EDITION 3-28-44

Supreme Court
* Selective

Professor Is Right:

You're Not in Army Till You Take Oath, High Court Rules

The Supreme Court yesterday ruled that a man actually does not become a member of the armed forces until he takes the induction oath.

The tribunal acted unanimously in rejecting the Army's viewpoint"—as presented by the Government—that a man becomes a soldier when he passes his final physical examination.

This case involved a plea by Arthur Goodwyn Billings, former University of Texas economics professor, for a writ of habeas corpus to release him from Army detention.

Billings, who had stated publicly he never would serve in the Army, passed a final physical examination but refused to stand when the induction oath was read to him at Fort Leavenworth, Kans., and refused to subscribe to it.

For thus refusing to obey an order of a "superior" officer, he was placed in a post guardhouse. He contended he was not subject to Army discipline because he had not taken a valid oath and thus actually was not in the Army. The Supreme Court upheld his contention, thus paving the way for his release from the guardhouse.

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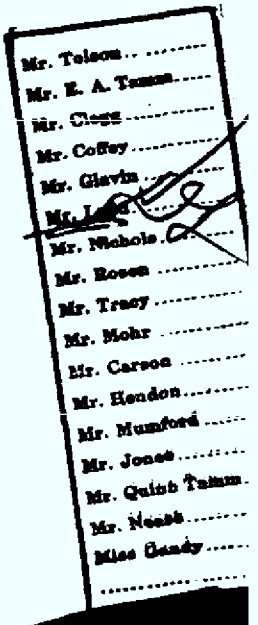

High Court Upholds Portal Pay For Iron Ore Miners of Alabama

By LOUIS STARK
By Cable to THE NEW YORK TIMES.

WASHINGTON, March 27—Underground travel for iron ore miners constitutes working time and must be paid for under the Fair Labor Standards Act, the Supreme Court ruled today.

Justice Frank Murphy, writing the majority opinion in the case of three Alabama iron mining companies, upheld rulings by two lower courts favoring pay on a portal-to-portal basis. A sharp dissent was voiced by Chief Justice Harlan F. Stone and Justice Owen J. Roberts, the latter writing the opinion. Justices Felix Frankfurter and Robert H. Jackson, who were part of the seven-man majority, wrote concurring opinions.

The decision may be construed as a precedent applying to the coal-mining industry, which has two suits affecting "portal-to-portal" pay. A contract providing "portal-to-portal" pay for coal mines is before the National War Labor Board for approval.

Philip Murray, president of the CIO, which joined with the miners in initiating the iron ore case in 1940, hailed today's decision as reflecting "a great and epochal victory for underground miners who have fought for many years to establish the principle of payment for underground work, including travel time."

Crampton Harris of Birmingham, Ala., who represented the iron miners in the case and who is also counsel for the United Mine

Continued on Page Fifteen

62-27555-A
NOT RECORDED
INDEXED 87 APR 18 1944

This is a clipping from page 1 of the New York Times for March 28, 1944
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937
APR 27

Continued From Page One

Workers made the following comment on the telephone:

"There can be no differentiation between work in an iron ore mine and work in a coal mine. The same law, the same principles, apply equally as regards travel time constituting work time and the work week, and in my opinion, the decision in the iron ore case will apply as the law of the land governing the work week in coal mines."

Today's case came before the court on a petition by the Sloss-Sheffield Steel and Iron Company, the Tennessee Coal, Iron and Railroad Company and the Republic Steel Corporation, which sought declaratory judgments against three iron ore locals of the Mine, Mill and Melter Workers, CIO, to determine whether time spent by miners in traveling underground in mines to and from "the working face" constituted work or employment for which compensation must be paid under the Fair Labor Standards Act. The companies own twelve underground iron ore mines in Jefferson County, Ala.

Not Dealing With "Chattels"

In determining wehther underground travel constitutes compensable work within the meaning of the act, Justice Murphy said, the court was "not guided by any precise statutory definition of work or employment."

"We are not here dealing," he went on, "with mere chattels or articles of trade, but with the rights of those who toil, of those who sacrifice a full measure of their freedom and talents to the use and profit of others."

He said that the miners ride to their places in "ore skips" or "regular man trips" and were forced to jump several feet into the skip from a loading platform, with not infrequently, injuries to ankles, feet and hands.

The heads of most of the men, he added, were a foot or more above the tops of the skips and, since the skips usually clear the low mine ceilings by only a few inches, the miners are compelled to bend over.

"Thus they ride in 'spoon-fashion,' with bodies contorted and heads drawn below the level of the skip top," he continued. "Broken ribs, injured arms and legs and bloody heads often result; even fatalities are not unknown."

"Dark, Maledorous Shafts"

The long rides taken by the men "in the dark, maledorous shafts," he declared, and "the exacting and dangerous conditions in the mine shafts stand as a mute, unanswerable proof that the journey from and to t he portal involves continuout physical and mental exertion as well as hazards to life and limb."

"This compulsory travel," he proceeded, "occurs entirely on petitioners' property and is at all times under their strict control and supervision."

The Wages and Hours Act, according to Justice Murphy, must not be interpreted as applied "in a narrow, grudging manner." Thus he viewed some sections of the act as indicative of Congressional intent to "guarantee a regular or overtime compensation for all actual work or employment."

Saying that the company's objections had relied on alleged "immemorial custom and agreements arrived at by the practice of collective bargaining" to uphold payment by the "face to face" method, Justice Murphy asserted that the District Court had been unable to find any such "immemorial" custom or collective bargaining agreements.

Custom Held "Immaterial"

However, he held that it was "immaterial" that "there may have been a proper custom" not to pay employes for some parts of their work, for the Fair Labor Standards Act "was not designed to codify or perpetuate those customs and contracts which allow an employer to claim all of an employe's time while compensating him for only a part of it."

Justice Roberts opened his dissent by saying:

"The question for decision in this case should be approached not on the basis of any broad humanitarian preopossessions we may all entertain, not with a desire to construe legislation so as to accomplish what we deem worthy objects, but in the traditional and, if we are to have a Government of laws, the essential attitude of ascertaining what Congress has enacted rather than what we wish it had enacted."

Taking issue with Justice Murphy's remarks on the alleged inability of the Federal District Court to find "immemorial" customer "collective bargaining agreements" for pay on a "face-to-face" basis, Justice Roberts cited a public arbitration proceeding in Birmingham in 1903, a board of arbitration ruling in 1917, approved by the United States Fuel Administrator, language quoted by the Bituminous Coal Commission in 1920 and the 1923 Code of Fair Competition for the Bituminous Coal Industry.

Cites Roosevelt Approval

He added that the Appalachian agreement of 1933, approved by President Roosevelt, said that eight hours shall constitute a day's work and "this means work in the mines at the usual working places for all classes of labor."

He asserted that the fair labor standards act "was not intended by Congress to turn into work that which was not work, or not so understood to be, at the time of its passage," nor was it intended to have the courts "designate as work some activity of an employe which neither employer nor employe had ever regarded as work merely because the court thought that such activity imposed such hardship on him or involved conditions so deleterious to his health or welfare that he ought to be compensated."

It was common knowledge, he said, that the issue of "portal-to-portal" pay in connection with the mining industry was first raised nationally after the nation was at war and in connection with "dis-

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FILE

8-1 Supreme Court Decision Upholds Texas Negro Vote Right

By John Meldon

Delivering one of the severest blows ever suffered by the political-feudal overlords of the entire South, the U. S. Supreme Court, in an 8 to 1 decision yesterday upheld the constitutional right of Texas Negroes to vote in the Democratic primaries.

Justice Stanley Reed, who delivered the decision, declared that the ban against Negroes participating in the primaries was a violation of the 15th Amendment. Lone and bitter dissenter in the 8 to 1 ruling was Justice Owen J. Roberts.

JUSTICE STANLEY REED
Writes Decision

JUSTICE OWEN D. ROBERTS
Dissents

The case attracted universal attention throughout Southern states, for in the high court decision in the Texas case—known as the "white primary case" the political future of a whole gang of Texas anti-Roosevelt, anti-Teheran Congressmen hangs fire. Among these notorious notables are Congressmen Martin Dies, Richard Kleberg (greatest landowner in America), Hatton W. Sumners and others of similar stripe.

NEGRO BRINGS SUIT

Yesterday's court decision was brought before the high court by Lonnie E. Smith, Houston Negro, who charged that the Democratic Party of Texas had been flaunting the federal constitution and denying Negroes their right to vote in the primaries "solely because of race and color."

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NOT RECORDED
87 APR 5 1944

This is a clipping from page 1 of the DAILY WORKER
Dated Apr 4 1944
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19 APR 7 1944

Smith, backed by several national organizations and labor in the South, sued two Texas Harris County election judges, charging they refused to accept his ballot as a qualified voter in the 1940 Democratic primaries for nomination of federal, state and local candidates. He asked for damages and a declatory judgment affirming the right of Negroes to vote in the primaries.

Smith's suit had been previously rejected by a Texas Federal District Court, which claimed that the Texas primaries were "political party affairs" and not subject to federal control. Meanwhile, a Federal Appeals Court at New Orleans upheld the Texas local officials, thus setting precedent in Louisiana barring Negroes from participating in primaries in that state also. Yesterday's Supreme Court decision upset the Louisiana decision and legally bans discrimination against Negroes in primaries in all other southern states where this feudal practice is still in effect.

REVERSES '35 STAND

The Texas "white primary case" had been argued twice before the U. S. Supreme Court. Earlier, in 1935, the Supreme Court had ruled that a denial of the right of Negroes to vote in the Texas primaries was "a mere refusal" by the Democratic Party to admit Negroes into Democratic Party membership, and, as a "private organization," had the right to make rules as to who could vote in its primaries.

However, in another ruling in 1941, Justice Reed pointed out in yesterday's decision, the high court had ruled that primaries involving candidates for federal office are part of federal elections.

"It may now be taken as a postulate," Justice Reed's decision read, "that the right to vote in such a primary for the nomination of candidates without discrimination by the state, like the right to vote in a general election, is a right secured by the Constitution.

"By the terms of the 15th Amendment, that right may not be abridged by any state. . . Under our Constitution the great privilege of choosing his rulers may not be denied a man by the state because of his color."

Lone dissenter in the 8 to 1 decision, which is historic in proportions, was Justice Roberts, a Hoover appointee, who bitterly assailed the ruling. Justice Roberts' anger at the ruling was not at the legality of the ruling itself, but because, to use his words the eight justices had shown "intolerance" against previous court judges who had ruled in favor of the discriminatory practice.

Preceding the Supreme Court ruling, which must have struck terror into the hearts of the Dies-Kleberg-Sumners gang who have maintained their Congressional seats by only a fraction of the potential vote in the Texas counties, Negro organizations in Texas had been preparing for a favorable decision by conducting a broad campaign among Negroes to pay their poll-tax in order to be eligible to vote. Thousands of Negroes voters scraped up the necessary tax and have paid, it was reported. A survey conducted last month showed that out of the 3,600,000 persons in Texas of voting age, about 1,700,000 had thus become eligible. Last January, Negro churches, clubs, chambers of commerce and insurance companies mapped out a campaign to turn out a big Negro vote in 1944.

Meanwhile, Texas has been the scene of a huge influx of war labor, and a shift of voting populations from the rural sections, where the Dies type of Congressmen held sway, to the urban manufacturing centers. This increasing politically conscious labor vote, plus the right of the Negroes to participate in the primaries may result in putting the skids under one of the worst political gangs in the entire south.

Another important by-product of the Supreme Court decision may be in this fact: whoever wins in the Texas Democratic primaries is as good as elected.

(Continued on Page 2)

Won't Like It

Mr. Tolson
Mr. E. A. Tamm
Mr. Clegg
Mr. Coffey
Mr. Glavin
Mr. Ladd
Mr. Nich
Mr. Rosen
Mr. Tracy
Mr. Mohr
Mr. Carson
Mr. Harbo
Mr. Hendon
Mr. Mumford
Mr. Jones
Mr. Quinn Tamm
Mr. Nease
Miss Gandy

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Biddle Urges Cut in Quorum Of High Court to End Impasse

Tribunal Unable to Hear Two Key Cases Because of Disqualifications, He Says

By WILLIAM MOORE

Attorney General Biddle recommended last night that the quorum of the Supreme Court be reduced from six to five justices—to end an impasse which members of Congress say has resulted from President Roosevelt's appointment of New Dealers from his official family to the Supreme Court bench.

Biddle urged Congress to reduce the statutory quorum in his annual Department of Justice report to the two houses.

Disqualified From Case

The Supreme Court has been unable to hear two major cases recently because of the number of justices who have disqualified themselves. Previous connection with the litigation concerned is the usual reason for disqualification, the justices having had a hand in the cases as an officer of the Department of Justice or an office holder in a Government agency before appointment to the Supreme Court.

The two major cases now stalemated are an anti-trust action by the Government against the Aluminum Company of America, and a suit brought by the North American Company, large utility corporation, against the Securities and Exchange Commission to test the constitutionality of legislation governing utility holding companies.

Biddle reported to Congress that a smaller quorum probably would solve the problem.

Representative Reed attempted to remedy the situation last October with a bill requiring the Chief Justice to call upon retired justices to assist when a quorum could not be obtained.

Biddle, however, asked Congress to pass a bill introduced by Senator O'Mahoney (D.), of Wyoming, to establish a majority of the court, or five of the nine justices, as a quorum.

Biddle's recommendation came as the feud in the Supreme Court was at its height. Members of the court have recently been sniping verbally at each other in their opinions. One faction is led by Justice Frankfurter, No. 1 adviser to President Roosevelt, and the other by Justices Black and Murphy.

Faulty War Material

Biddle also recommended legislation making the intentional manufacture or delivery of defective war material punishable as sabotage. The present sabotage law does not cover all such cases, so that the only prosecution possible in some instances has been for simple fraud.

The Attorney General asked that Congress make provision for the voluntary expatriation, or withdrawal from American citizenship, of citizens in this country whose true allegiance is to a foreign nation. A number of American-born Japanese who are American citizens, he said, wish to abandon American citizenship and be interned as enemy aliens until they can be sent back to Japan. But present law does not permit them to expatriate themselves within the United States.

Biddle also asked Congress to make a uniform definition of the duty of Federal officers to take an arrested person before a committing officer, providing for arraignment within a reasonable time.

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27 APR 10 1944

53 APR 11 1944

APR 5

WASHINGTON TIMES-HERALD

FILE

High Court Hits Florida Peonage

WASHINGTON, April 10 (UP).—The Supreme Court, in a 7 to 2 split, today voided as a violation of the 13th amendment and the Federal anti-Peonage Act a Florida statute which makes it a crime to obtain a wage advance "with intent to defraud an employer."

The tribunal reversed the Florida Supreme Court which had reversed a ruling of a (Brevard, Fla.), County Circuit Court. The County Court had set aside the conviction of Emanuel Pollock, described as an "illiterate Negro."

The High Court ruled, in a majority opinion written by Justice Robert H. Jackson, that the law deprived individuals of their liberty without due process and that it unconstitutionally furnished employers win an involuntary servitude weapon.

Jackson said that the court did not impute to the Florida Legislature any "intention to oppress, but we are compelled to hold that the Florida Acts of 1919 as brought forward to 1941 are, by virtue of the 13th Amendment and the Anti-Peonage Act, of the United States, null and void."

INDEXED

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87 APR 12 1944

This is a clipping from page 1 of the DAILY WORKER
Date Apr. 11, 1944
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54 APR 20 1944

FILE

Union Busters Slapped

THE Wagner Labor Relations Act was substantially reinforced in two more Supreme Court rulings Monday. Both of them are timely since they hit directly against a number of methods employers have used recently in their efforts to circumscribe the law of the land.

First, the court slapped the employer who schemes to stall and delay certification of a union as a collective bargaining agent while he pulls strings to whittle down its majority among the workers through favoritism, discharge or other such familiar methods. No matter what happens while the case is pending, the court ruled, the union retains its right to bargain for the workers.

Only last week the War Labor Board noted that employers are increasingly challenging the rights of unions to bargain for workers, fishing out all sorts of excuses, obviously for no other purpose than to disturb labor relations stability to a point of provoking strikes.

The other ruling of the court slapped down an employer who, after recognizing a union, continued to enter into "individual contracts" with workers, in effect bribing them with temporary favoritism, if they would break with the union. This action was a logical follow-up of the recent ruling reaffirming a ban on "yellow dog" contracts.

Such decisions are especially timely today in view of an inclination among some reactionary employers to shake themselves away from union contracts in preparation for their post-war plans. The earlier the law of the land is put before such employers in specific terms, as the court has done in a number of recent cases, the more healthy it will be for labor-employer relations generally.

Mr. Tolson .....
Mr. E. A. Tamm.....
Mr. Clegg .....
Mr. Coffey .....
Mr. Gurnea .....
Mr. Ladd .....
Mr. Nichols.....
Mr. Rosen .....
Mr. Tracy .....
Mr. Mohr .....
Mr. Carson .....
Mr. Edison.....
Mr. Pennington .....
Mr. Quinn Tamm ....
Miss Gandy .....

Supreme Court Affirms Stand Giving Negroes Vote in Texas

By the Associated Press

The Supreme Court yesterday refused to budge from its stand that Negroes have a right to vote in Texas Democratic primary elections.

Without comment, the Court declined to reconsider its 8-to-1 decision of April 3 that a man cannot be barred from participating in the selection of "his rulers" because of his color.

Attorney General Grover Sellers of Texas and two Houston election judges who were involved in the original case requested a rehearing on the ruling which upset previous court decisions on the issue.

The Court based its April 3 finding on the ground that the Democratic Party in Texas is required to follow procedure laid down by State law in selecting nominees and, therefore, is an agent of the State.

Sellers argued party officials conduct the elections at party expense and that the State does not have the right to say anything about voter qualifications.

Jap Citizens' Case

The Court also cleared the way for broad consideration of the problem of Japanese-American citizens who were removed from the West Coast area and sent to detention camps under military orders shortly after the outbreak of the war. It agreed to hear the appeal of Mitsuye Endo of Sacramento, Calif., for release from a War Relocation Authority camp in Modoc County, Calif.

Arguments on her appeal will be heard next fall, along with another case challenging the constitutionality of the evacuation orders under which the Japanese-Americans were removed from the coast. The latter case was filed by Fred Toyosaburo Morematsu, taken from San Leandro, Calif., to a WRA center at Topaz, Utah.

In other actions yesterday the court:

Held, 7 to 2, that States may require out-of-State corporations to obtain certificates of authority to do business in the State without infringing upon the Interstate Commerce Act or other Federal laws.

The decision upheld a ruling of the Minnesota Supreme Court that the Union Brokerage Co. of Portal, N. Dak., did not have the right to maintain a suit in Minnesota courts, because it had not obtained such a certificate in compliance with the Minnesota foreign corporations act.

Upheld unanimously a special master's rejection of claims by Kansas to 2500 acres in the Forbes Bend section of the Missouri River between Doniphan County, Kans., and Holt County, Mo.

Tentatively decided to adjourn May 29 for the summer.

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NOT RECORDED
87 MAY 11 1944

INDEXED
149

This is a clipping from page 3 of the Washington Post of
MAY 9 1944
Clipped at the Seat of Government.

55 MAY 19 252

Supreme Court

By Merlo Pusey

Legislation From The Bench

III

MOST OF THE controversies that have swirled around the Supreme Court have concerned its exercise of legislative powers.

PUSEY

The most infamous decision the court ever made—that in the Dred Scott case preceding the Civil War—was an adventure in legislation from the bench. There have been many instances since. It was the charge of court-room legislating that won support for President Roosevelt's attack on the court in 1937. Now again the sharpest barbs flying in the direction of the Supreme Bench are pointed by the same accusation.

The court has always resented this charge. Regardless of how far they go in stretching the law to accomplish their purposes, the judges insist that they are merely interpreting the law and the Constitution as they stand. And the best legislators on the bench do not hesiate to denounce the conclusions of their colleagues as judicial lawmaking when they are in disagreement. Only a month ago, for example, Justices Douglas and Black, who are the court's leading law-makers at present accused the majority in the Saylor case of writing "into the law what Congress struck out 50 years ago."

But if that was a case of stretching the law, it was a comparatively minor one. What is of infinitely greater concern is the disposition of the court to add to or detract from the law in important matters of public policy. Until recently this tendency was manifested chiefly in stripping down statutes to something less than Congress had enacted. The most notable example was the emasculation of the Antiracketeering Act in order to protect unionized truck drivers who had established a monopoly by the slugging method.

DURING ITS LAST term the court went further than it had previously gone in bridging over gaps in the law and extending old statutes to cover situations never previously supposed to have been included. In the pre-depression days Congress had been negligent in regulating the relationship between holding companies and national banks. It had put the stockholders of "every national banking association" under double liability. But nothing could be found in the statutes applying the same obligation to the stockholders of State-created holding companies owning bank stock. Congress had simply not legislated on the subject, and when it did take the matter up later it chose a very different means of dealing with bank-holding companies.

Yet a bare majority of five justices held the stockholders of a Delaware holding company subject to double liability in spite of Congress' inaction. Apparently they acted on what the layman would call general principles—that is to say they voted to sock the holding company, law or no law.

The tendency to legislate from the bench came to full flower in the case of the Southeastern Underwriters Association. So far as I can see, the real issue was not any shenanigans of the fire-insurance companies or whether or not the business of insurance affects interstate commerce sufficient to justify regulation by Congress. Apparently real abuses have crept into some of the agreements insurance companies have made across State lines. The court was unanimously of the view that Congress may reach these interstate aspects of the insurance business if it chooses to do so: It split 4-to-3 chiefly on the question of whether Congress had attempted to do so in passing the antitrust acts.

CONGRESS PASSED the Sherman Act long after the Supreme Court had said that insurance is not interstate commerce. The House committee in charge gave assurance that the bill was not intended "to occupy doubtful grounds" and expressed the view that "Congress has no authority to deal, generally, with the subject (restraint of trade) within the States." Later Congress turned down many requests to legislate on interstate transactions in insurance" because its judiciary committees believed that subject was beyond reach of Federal power. In 1914, Congress amended the Sherman Act by the Clayton Act and again defined the meaning of "commerce" without including insurance. The sponsor of the bill Representative Webb, told the House specifically that "insurance companies are not reached, as the Supreme Court has held that their contracts or policies are not interstate commerce."

These facts cited by the dissenting justices seem to me to be pretty conclusive evidence that Congress had no thought of subjecting insurance companies to the Antitrust Acts. But the law makers on the Supreme Bench were apparently not willing to wait for a slow-motion Congress to speak for itself. They crudely tried to meet a legislative problem by injecting new mea ing into a 50-year-old statute.

Now this policy is just as r rehensible as was the old cour habit of choking off legislati enactments which it did not li "To force the hand of Congres said Justice Jackson, dissenti "is no more the proper functi of the judiciary than to tie t hands of Congress." The judi pendulum has swung from o extreme to the other. A major of the court is still legislati but with a different set of pre lections. And it will doubtl continue to do so as long as t President insists on giving it majority of crusaders instead judicial-minded men who a willing to interpret the law o jectively and let the chips f where they may.

Mr. Tolson
Mr. E. A. Tamm
Mr. Clegg
Mr. Coffey
Mr. Glavin
Mr. Ladd
Mr. Nichols
Mr. Rosen
Mr. Tracy
Mr. Mohr
Mr. Carson
Mr. Hendon
Mr. Mumford
Mr. Jones

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Wash Post
2-4-44
(Bulldog)

INDEXED
NOT RECORDED
87 JUL 6 1944

Plight of West Coast Japs Weighed by Supreme Court

By the Associated Press

The Supreme Court took to its conference room yesterday for decision one of the most complicated legal problems faced by the Government since Pearl Harbor—the constitutionality of evacuating and confining American citizens of Japanese ancestry.

The Justices listened through five hours of argument and fired pointed questions frequently at attorneys as they developed unique legal points involved in appeals of a young man born in Oakland, Calif., and a young woman born in Sacramento.

The man, Fred T. Korematsu, asked the high tribunal to rule on validity of evacuation orders which resulted in his being placed in a war relocation authority center at Topaz, Utah. The woman, Miss Mitsue Endo, demands freedom from the same center and a court declaration that she has the right to go wherever she pleases.

Loyalty Not An Issue

The court was told that there is no question of the loyalty of either to the United States, and that there was no evidence involving any Japanese-American citizen in espionage or sabotage on the West Coast.

The cases arose from a proclamation by Lieut. Gen. J. L. Dewitt excluding persons of Japanese ancestry from certain West Coast areas. Attorneys for Korematsu argued that neither Congress nor the President intended such action and said that only in Nazi Germany could a similar "imprisonment program" be found.

Counsel for Miss Endo contended that the only legal ground for her detention was "implied authority" said to be conferred by Congress and the President. He said she had been told she may leave the camp if she does not return to California or several other West Coast States. But she refuses to leave unless she can go to her home.

"Does that imply," demanded Chief Justice Stone, "that she will be loyal in one place, and not loyal in another?"

Solicitor General Charles Fahy urged the court to consider circumstances involved in the cases in the light of sacrifices made by millions of other citizens sa far in the war.

Asks Sacrifices Be Weighed

"Many persons have been required to endure dislocations," Fahy said. "Hundreds of thousands already have been casualties. Those who have been injured, temporarily, in relocation efforts should be asked to view their cases along with the great hardships millions of our people have already endured in this war."

He argued that after the attack on Pearl Harbor evacuation and detention were necessary, said it has always been the Government's plan to restore evacuees to full liberty as soon as circumstancs permit, and stated the people concerned had been treated in a "fair and decent manner."

Mr. Tolson
Mr. E. A. Tamm
Mr. Clegg
Mr. Coffey
Mr. Glavin
Mr. Nichols
Mr. Rosen
Mr. Tracy
Mr. Carson
Mr. Hendon
Mr. Mumford
Mr. Quinn Tamm
Miss Gandy

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87 OCT 21 1944

INDEXED

EX-5

Clipped from the
WASHINGTON POST, 10-13-44
page 17

155

Closed Shop Ruling Puts Confusion in Labor Picture

Labor and industrial attorneys today predicted that a recent decision of the U.S. Supreme Court will necessitate revision of the Wagner Act's provisions for "closed shop" contracts between employers and unions.

Termed "one of the most perplexing and unsettled decisions in the history of labor legislation," the ruling said, in effect, that an employer may not sign a closed shop agreement with a union if he knows that the union intends thereby to "exclude certain employees from membership in the union because of their prior opposition to the union.

The decision was handed down Dec. 18 in a 5-4 split. Justice Jackson, in dissenting, expressed belief that the majority opinion, if carried out, "denies the right of each union to control its own admissions to membership," and permits the employer to "police" the internal affairs of the union.

Must Open Roster.

In the majority opinion, Justice Black said, in effect, that an employer must see that the union with which he has been ordered to bargain, after an election had been held, makes proper terms for admission into that certified union of all employees, including the union's former enemies and rivals.

The case arose after an election at the Wallace plant, in which an independent union was the victor over a C.I.O. union in a plant election. Prior to the election, the company contracted to accept a closed shop with the union that won the election. After winning, the independent union executed the closed shop contract and then denied membership to 43 of the 83 employees who voted for the other union.

In accordance with the contract, the company was then forced to discharge these 43 employees who were not admitted to union membership. The company protested the discharge on the grounds that the loss of such a large number of experienced workers would hamper production, but the union was adamant.

Discharges Ruled Out.

The Supreme Court then decided that the discharges were illegal, despite the closed shop contract, and ordered the company to reinstate the discharged workers and pay them for the time lost. It also, in essence, abrogated the closed shop contract, in the eyes of most labor attorneys.

Francis Heisler, counsel for several C.I.O. unions, declared today that the majority opinion "is not a body blow to labor or to the closed shop, as some attorneys seem to think."

Most unions, Heisler explained, do not restrict their membership only to those who were members before an election, but welcome all employees who desire to join after a contract has been signed, regardless of their prior antagonism to the union.

Called Club on Labor.

On the other hand, Daniel Carmell, counsel for the Illinois and Chicago Federations of Labor, assailed the majority opinion as a bludgeon in the hands of employers who want to obstruct a closed shop in their plants.

He asserted, further, that the decision conflicts with the Wagner Act in that, by requesting employers to make sure that unions do not restrict membership in a closed shop, the employers are violating the "unfair practices" provision of the labor law.

According to several attorneys for industrial corporations, the effect of the new decision is one of "confusion and chaos." Hitherto, lawyers for both management and unions have believed that once an election has been held, a union recognized as a bargaining agent, and a closed shop contract signed, then the company's responsibility ends insofar as union membership is concerned.

'Motives' Under Scrutiny.

But, in light of this decision, it is presumed that the employer must examine the "motives" of the union before agreeing to a closed shop provision in the contract; and that he may refuse to sign such a contract unless the union admits all employees to membership.

Because of this ambiguity of interpretation, labor relations experts agree that the next move is up to Congress, which must amend or clarify the National Labor Relations Act in conformity with the decision.

"As things stand now," one attorney pointed out, "the employer is in the middle. If he interferes and tells the union he won't sign a contract for a closed shop unless membership is inclusive, under the law he is guilty of unfair labor practices.

"Contrariwise, if he does not compel the union to broaden its eligibility to membership, he is guilty of an unfair labor practice under the Supreme Court decision. At present, no employer can know what he is to do about the closed shop provision."

CHICAGO DAILY NEWS
12-28-44
FEB 8 1945

Wage-Hour Law Covers Piece Workers, Supreme Court Rules

WASHINGTON, Jan. 2 (UP).—The Supreme Court held in an 8-1 decision today that the federal wage-hour law applies to piece-rate workers.

The Perfect Garment Co., Los Angeles, charged with minimum wage and overtime violations, had won dismissal of the allegations as to piece workers in California district court.

Justice Frank Murphy, who read the ruling interpreting the act, said, "We cannot assume Congress meant to discriminate" against piece workers when it enacted the minimum wage and hour standards.

Under the wage-hour law, employer must pay piece workers the 40-cents an hour minimum rate, even though they do not earn that amount at piece work rates.

Justice Owen J. Roberts dissented without an opinion.

The court agreed to review the question whether bituminous coal miners must be paid underground wages on a portal-to-portal basis. It accepted a case in which the Fourth Circuit Court of Appeals reversed a Virginia federal court ruling against the Jewel Ridge Coal Co.

The court also decided to review an anti-trust action against collective bargaining agreements between an electrical workers union, electrical contractors and electrical equipment manufacturers in the New York City area.

The court in two Ohio cases unanimously affirmed the exemption of low-cost housing projects owned by the Federal Public Housing Authority from local and state taxation.

The court also agreed to review a suit in which the federal government has attacked a collective bargaining agreement between labor unions and employers as being in violation of the Sherman anti-trust law. The case involves the millwork and pattern lumber industry in the San Francisco bay area.

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This is a clipping from page 12 of the DAILY WORKER

Date 1-3-45

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Page 2

Supreme Court Upholds Unions, Outlaws State 'Regulation'

By Federated Press

WASHINGTON, June 11.—State laws regulating labor unions must not conflict with the provisions of the Wagner Labor Relations Act giving workers the right to bargain collectively through representatives of their own choosing, the U.S. Supreme Court held in a major decision today. The court acted on the Florida statute requiring union organizers and business agents to register with a state board and also calling on local unions to file financial reports and lists of their officers.

Associate Justice Hugo Black read the majority decision with Justices Felix Frankfurter and Owen J. Roberts dissenting while Chief Justice Harlan Stone dissented in part.

Stone agreed with the majority that the Florida provision requiring the licensing of business agents and organizers by a board that passes upon their qualifications, morals and citizenship was in direct conflict with the Federal labor law.

But Stone dissented from the majority opinion that the requirements that local unions file financial reports and other data is in irreconcilable conflict with the collective bargaining relations of the Wagner Act.

Black reviewed the case in which business agent Leo H. Hill of Local 234, United Association of Journeymen Plumbers (AFL) was restrained by Florida from operating until he and the local complied with the state law.

The Florida Supreme Court upheld the conviction of Hill and the local, and Black found that the state law had been "so construed and applied that the union and its selected representative are prohibited from functioning as collective bargaining agents, or in any other capacity, except upon conditions fixed by Florida."

Black said that the declared purpose of the Wagner Act "is to encourage collective bargaining, and to protect the 'full freedom' of workers in the selection of bargaining representatives of their own choice."

The majority of the court said that the Florida law substituted Florida's judgment for the workers' judgment as to the selection of a bargaining agent.

As to the licensing of the local union, Black found that the penalty provision of the statute, prohibit-

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EX - 9

This is a clipping from page 2 of the DAILY WORKER

Date 6-12-45

Clipped at the Seat of Government

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71

56 JUN 27 1945

ing the local from functioning as a labor union unless it complied, is "inconsistent with the federally protected process of collective bargaining."

Specifically, the Court did not object to the regulation that local unions file reports, but rather to the sanction imposed.

Two Alabama cases, filed by the AFL and CIO, were dismissed by the court in opinions read by Chief Justice Stone. The Alabama (Bradford) Act does not provide any penalty that would prohibit a union or a union official from functioning as such in event of non-compliance. It simply provides criminal penalties, and the unions did not challenge the right of the state to regulate labor unions.

The Supreme Court also affirmed, 8 to 1, a lower court decision that a National Labor Relations Board certification of a union as bargaining agent may not be reviewed by a Federal court.

The ruling was made in a complaint filed by five AFL local sawmill unions over an NLRB order certifying rival CIO unions as the bargaining agent for the employes of five lumber plants at Potlatch Forests, Inc., Lewiston, Idaho.

The high court meanwhile allowed the back overtime wage claims of maintenance employes in one New York City office building, but rejected the claims of those in another building.

The court, in a 7 to 2 verdict, allowed claims by employes of the Borden Building (350 Madison Ave.) on grounds that the building housed central offices of plants engaged in Interstate Commerce in other cities.