Letters from our readers

14 July 2012

On "The legal implications of the Supreme Court ruling on the Obama health care law"

Thank you, Tom Carter, for a fine warning about the long-term implications of the Obamacare case. It is always amusing the way in which conservatives rant and rail about the "judicial activism" of progressive justices such as Douglas and Marshall of the Warren Court. The reality is that such justices offered a consistent and logical interpretation of the Constitution. The expansion of the commerce power by the Supreme Court in supporting regulatory measures such as restrictions on child labour, occupational health and safety regulations, etc., is a legitimate use of the commerce power. It is the job of the federal government to ensure that interstate trade is conducted in a manner that protects the rights of citizens and not just the profits of owners of private companies.

The mandate of Obamacare is a gross misapplication of the commerce clause power. It effectively says that the federal government can force a citizen to buy a product from a private for-profit company. In so doing, Obamacare treats health care as if it is a commodity no different than potato chips rather than being a human right outlined under the International Covenant of Economic, Social and Culture Rights (which is one of the three instruments making up the International Bill of Rights). Having failed to deliver health care as a government service funded by some form of taxation as happens in the rest of the Western nations, Obama has actually boasted that he kept health care out of government control and in the hands of the private sector.

The WSWS has written in depth about the shortcomings of Obamacare. It is becoming increasingly well understood in the general community that Obamacare is a boondoggle for the for-profit health care companies that will do little or nothing to remedy the lack of health care of millions of uninsured and under-insured Americans. What is equally serious, as Tom Cater points out, is that by misapplying the commerce power, the Obama administration has laid the groundwork for the court to use this decision to undermine progressive achievements of the Roosevelt and Johnson administrations.

Conservative justices of the neo-con variety have had no difficulty jumping though legal hoops to achieve their regressive agenda. The so-called doctrine of states' rights dates back to Thomas Jefferson's criticism of the Marshall Court's ruling in McCulloch v Maryland. States' rights is a nonsense as states do not have rights—people have rights. While professing a commitment to states' rights, the Roberts Court has been happy to endorse the concept when striking down the Medicaid expansion of Obamacare while ruling that states rights' had no application when saying that the state of Montana statute enacted to limit campaign contributions that had contributed to widespread political corruption in a state in which the copper bosses held sway could not stand under Citizens United.

The Justices continue their Alice in Wonderland Red Queen "the law is what I say it is" approach to judicial activism in upholding Obamacare by calling it a tax. A tax is a levy by a government upon its citizens for a service it provides for them for their benefit. Only the deepest of commitment to protecting the increased future profits for the private sector health care companies could produce such a ridiculous illogic as to call the mandate a tax.

Given that Obamacare is largely a plan drafted by the conservative Heritage Foundation in the 1990s to be used against Bill Clinton's proposed government health care plans and was tweaked by reference to the Dartmouth Plan, a form of class-based triage, it is hardly surprising that John Roberts had no trouble maintaining the for profits sections of the Act.

We are all the poorer for the Roberts Court's regressive judicial activism.

Diane
Michigan, USA
9 July 2012

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As you said, "Article I, Section 8, Clause 3 of the US Constitution (the "Commerce Clause") … provides that Congress has the power to "regulate Commerce ... among the several States..." and that "Right-wing attacks on the Commerce Clause, which take the form of calls to "go back" to the understanding of the clause that preceded the New Deal…"

If they "go back" far enough, you will discover the interpretation of the Clause in pre-Civil War America: it was

considered inapplicable to regulating the sale and transport of slaves across state lines—that is, between and among slave states.

Even abolitionists had to recognize that interpretation, and were limited to attacking the expansion of slavery into the territories as a Constitutional issue. The slave trader was despised in most circles, even in the South, but the trade could not be touched by the "Commerce Clause". The states were sacrosanct, and immune to federal law on the matter of slavery—unless, of course, the Constitution could be used to support slavery, as in the Fugitive Slave Law of 1850.

Historian Arthur Bestor explains this in this essay "The American Civil War as a Constitutional Crisis" (1964) in JSTOR.

Randy R
Oregon, USA
10 July 2012
On "Two die following Chicago train derailment"

"The roughly 18,000-ton train had 138 cars of coal from Wyoming's Powder River basin destined for a power plant in Wisconsin."

On other railroads it's against the rules (or law?) to have trains that are over 10,000 tons and over 10,000 feet (2 miles) long.

"Both UP and the attorneys contend that there was likely a heat kink on the trackage. Welded steel rail comes in continuous quarter mile lengths, and in extreme weather conditions the expansion of the steel can result in sections of the rail breaking lose from fasteners that keep it in gauge."

Maybe UP's idea of "track maintenance" is applying Band-Aids to the rail because they're too cheap to replace and upgrade their own tracks (cement? Rather than wooden ties?), bridges, and signal systems (which often black out under mid-level to extreme weather conditions). Track that is held up by rocks and dirt as its foundation also deteriorates due to heavy flooding and erosion (especially if it runs along side bodies of water like rivers, or its a temporary track like the one built by UP).

"One train was supposed to take a parallel "siding" track to stop and wait for the other train, but instead both trains were moving on the same track towards each other. Preliminary reports indicate that signal systems were operating, possibly pointing to human error, but full investigation by the National Safety Transportation Board will take roughly a year."

The train took the siding but failed to stop at the stop signal, therefore obstructing the movement of oncoming traffic on the "main" track. Not sure why the train didn't stop.

Underpaid, six-day-a-week slave labor, or human error could be a factor, but many of the engines are very old and sometimes big heavy trains aren't given sufficient amount of engines to easily control train movement. I think it's because some bosses believe it's better to save money on skyrocketing fuel prices, and save money by not investing in brand new engines.

"Another major railroad, Norfolk Southern, has recently been found to intimidate employees who report injuries."

I think this is going on on all major railroads. The unions allow the company to make up their own rules when it comes to discipline.

Anonymous
10 July 2012
On "Canadian Auto Workers officials prepare 2012 contract surrender"

It is vitally important that we identify business unions as the pernicious cancer they are. It's tough for workers to be in a spot where they must accept cuts or face losing their livelihood. Modern capitalism has all the dark subtle shades of "Sophie's Choice".

Thank you and the WSWS for showing who is on what side of the fence. As a famous poster states— "Class consciousness is knowing which side of the fence you're on; Class analysis is figuring out who is there with you." Your analysis is appreciated Mr. Bronski—always.

Archie K
10 July 2012
On "British democracy in 'terminal decline,' report finds"

No surprise that Jonathan Friedland at the *Guardian* can offer no better hope than the authors of Democratic Audit as the *Guardian* itself is a cheerleader for the repressive policies of the British government. The newspaper supported the invasion of Iraq and Libya and currently agitates for invading Syria.

Jennifer H
11 July 2012