Wisconsin high court rules public workers have no constitutional right to organize

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In a reactionary ruling with far-ranging implications for democratic rights, the Wisconsin Supreme Court ruled Thursday that public sector workers do not have a constitutional right to organize and bargain collectively. In a 5-2 decision, the court upheld Governor Scott Walker's 2011 law—known as Act 10—that stripped Wisconsin's 200,000 public workers of collective bargaining rights, slashed their wages and benefits and sparked a wave of mass working class protests in February-March 2011.

The court rejected a lawsuit filed by the unions, which argued that the law violated workers' constitutional rights to free assembly and equal protection. The high court also overturned a September 2012 Dade County court ruling, which found major portions of the law unconstitutional.

"We reject the plaintiffs' argument that several provisions of Act 10, which delineate the rights, obligations and procedures of collective bargaining, somehow infringe upon general employees' constitutional right to freedom of association," Justice Michael Gableman wrote for the majority in a 90-page decision.

The court majority went even further, declaring it is "undisputed that collective bargaining is not constitutionally protected. Indeed, Wisconsin is under no constitutional obligation to collectively bargain at all."

In a summation of the anti-democratic ruling, Justice Gableman wrote, "No matter the limitations or 'burdens' a legislative enactment places on the collective bargaining process, collective bargaining remains a creation of legislative grace and not constitutional obligation. The First Amendment cannot be used as a vehicle to expand the parameters of a benefit that it does not itself protect."

Walker who has aspirations to seek the Republican nomination for the 2016 presidential elections, hailed the court ruling, saying, "Act 10 has saved Wisconsin taxpayers more than $3 billion. Today's ruling is a victory for those hard-working taxpayers."

Among its many reactionary provisions, the 2011 Wisconsin Budget Repair Bill forced public workers to double contributions to their health care and retirement funds. This resulted in a de facto pay cut of eight percent and, in some cases, as much as 20 percent, for workers who had already faced pay freezes and furloughs under the Republican governor's Democratic predecessor.

In a calculated move to block opposition to these and other attacks, including on public education, Act 10 prohibited public sector unions from bargaining over anything but wage increases, which were capped at the rate of inflation. Negotiations over benefits, staffing levels and other working conditions were no longer allowed.

The law also granted the governor sweeping powers to declare a "state of emergency" and unilaterally fire any public workers who "participates in a strike, work stoppage, sit-down, stay-in, slowdown, or other concerted activities to interrupt the operations or services of state government."

While the state AFL-CIO, Wisconsin Education Association Council (WEAC), the American Federation of State, County and Municipal Employees (AFSCME) and other unions went along with these attacks—including endorsing the sharp increase in workers' contributions to health care and pensions—they opposed the provisions in Act 10 that threatened the institutional interests of the union bureaucracy.

Act 10 forced unions to submit to annual

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recertification votes and to obtain 51 percent approval from eligible voters to remain as the employees' bargaining unit. In addition, the law eliminated a provision that allowed for the automatic deduction of dues from workers' pay checks, and it eliminated "fair-share" agreements, which required employees who opted out of union membership to pay partial dues to the union.

The 2011 mass protests—the largest eruption of the class struggle in the US in three decades—expressed widespread popular opposition to the explosive growth of social inequality and in particular the transfer of even more wealth into the hands of the financial elite after the 2008 crash.

Erupting outside of the control of unions, teachers, young people, public and private sector workers and sections of the middle class, including farmers and professionals, rallied, in demonstrations that grew to as large as 100,000 around the state capitol building, which was occupied by protesters.

This powerful movement was sabotaged, however, by the state and national AFL-CIO, WEAC, AFSCME and other unions, which sought to direct it behind Democratic Party. Union executives and their supporters in groups like the International Socialist Organization that hailed the publicity stunt by 14 Democratic Party state senators who fled from the capital in a move aimed at delaying the passage of Walker's bill. The Democrats, for their part, boasted that they had carried out the deepest cuts in state history under former Governor Jim Doyle, but had done it without a social explosion because they relied on the services of the unions to push through their demands.

In response to the growing support for a general strike—a demand raised by the Socialist Equality Party—and concern that working class opposition would spread, the unions called off the mass protests after Walker and the Republican state legislators pushed through Act 10 in March 2011.

The unions then channeled popular opposition behind a recall campaign against Walker. The recall election in 2012 ended in a rout of the Democrats, who ran Milwaukee Mayor Tom Barrett, a candidate who openly boasted about enacting deep austerity measures on city workers by working with the trade unions.

In the 2014 gubernatorial election, the Democrats have moved even further to the right with the selection of former Trek Bike executive and multi-millionaire philanthropist Mary Burke to run against Walker. Burke, the secretary of commerce under Doyle, who regularly refers to herself as a fiscal conservative, has sought to distance herself as far as possible from the 2011 protests and the deep opposition to austerity they reflected.

Burke endorsed the cuts to public workers' health care and pension plans but says she would have negotiated "firmly and fairly" with the unions to impose them. If elected, Burke says she would work to restore collective bargaining rights for public employees but has not said she would overturn Act 10.

Since the passage of Walker's measure, the unionization rate amongst public employees in the state of Wisconsin has declined at historic rates. The share of public employees who were union members in 2013 was 36 percent, down from 50 percent in 2011.

The danger that the collapse of the trade unions could lead to an eruption of class struggle outside of the control of these right-wing organizations has produced anxiety in sections of the ruling class. While concurring with the court majority, Justice Patrick Crooks wrote, "As thoughtful people from across the political spectrum and around the world have long recognized, collective bargaining benefits workers, employers and society itself."

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