



Women in Industry: Decision of the United States Supreme Court in Curt Muller vs. State of Oregon

Louis D. Brandeis

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[THE] ARGUMENT

The legal rules applicable to this case are few and are well established, namely:

First: The right to purchase or to sell labor is a part of the "liberty" protected by the Fourteenth Amendment of the Federal Constitution.

Lochner v. New York, 198 U. S. 45, 53.

Second: This right to "liberty" is, however, subject to such reasonable restraint of action as the State may impose in the exercise of the police power for the protection of health, safety, morals, and the general welfare.

Lochner v. New York, 198 U. S. 45, 53, 67.

Third: The mere assertion that a statute restricting "liberty" relates, though in a remote degree, to the public health, safety, or welfare does not render it valid. The act must have a "real or substantial relation to the protection of the public health and the public safety."

Jacobson v. Mass, 197 U. S. 11, 31.

It must have "a more direct relation, as a means to an end, and the end itself must be appropriate and legitimate."

Lochner v. New York, 198 U. S. 46, 56, 57, 61.

Fourth: Such a law will not be sustained if the Court can see that it has no real or substantial relation to public health, safety, or welfare, or that it is "an unreasonable, unnecessary and arbitrary interference with the right of the individual to his personal liberty or to enter into those contracts in relation to labor which may seem to him appropriate or necessary for the support of himself and his family."

But "If the end which the Legislature seeks to accomplish be one to which its power extends, and if the means employed to that end, although not the wisest or best, are yet not plainly and palpably unauthorized by law, then the Court cannot interfere. In other words, when the validity of a statute is questioned, the burden of proof, so to speak, is upon those" who assail it.

Lochner v. New York, 198 U. S. 45-68. Fifth: The validity of the Oregon statute must therefore be sustained unless the Court can find that there is no "fair ground, reasonable in and of itself, to say that there is material danger to the public health (or safety), or to the health (or safety) of the employees (or to the general welfare), if the hours of labor are not curtailed." *Lochner v. New York, 198 U. S. 45, 61.*

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